

HB 341

2005  
CS

## CHAMBER ACTION

1 The Transportation Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to wrecker services; amending s. 120.80,  
7 F.S.; exempting hearings of the Division of the Florida  
8 Highway Patrol concerning the wrecker allocation system  
9 from requirements of ch. 120, F.S.; creating s. 205.1975,  
10 F.S.; prohibiting a county or municipality from issuing or  
11 renewing a license for a wrecker company that is not in  
12 compliance with the requirements of the act; amending s.  
13 316.530, F.S., relating to traffic control; conforming  
14 provisions to changes made by the act; reenacting s.  
15 316.550(4), F.S., relating to special wrecker permits, to  
16 incorporate the amendment to s. 320.01, F.S., in  
17 references thereto; amending s. 316.605, F.S.; providing  
18 requirements for licensing wreckers and other vehicles;  
19 amending s. 320.01, F.S.; redefining the term "wrecker"  
20 for purposes of the Florida Statutes; amending ss. 320.03  
21 and 320.0706, F.S., relating to motor vehicle registration  
22 and license plates; conforming provisions to changes made  
23 by the act; reenacting s. 320.08(5)(d) and (e), F.S.,

Page 1 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

24 relating to license taxes, to incorporate the amendment to  
25 s. 320.01, F.S., in references thereto; amending s.  
26 320.0821, F.S.; revising requirements for the issuance of  
27 wrecker license plates; amending s. 320.13, F.S., relating  
28 to dealer license plates; conforming provisions to changes  
29 made by the act; amending s. 321.051, F.S.; providing  
30 definitions; requiring the Division of the Florida Highway  
31 Patrol within the Department of Highway Safety and Motor  
32 Vehicles to establish a wrecker allocation system;  
33 providing requirements for the system; authorizing the  
34 division to set maximum rates for towing and storage of  
35 vehicles; prohibiting an unauthorized wrecker company from  
36 monitoring a police radio or engaging in other activities;  
37 providing penalties; providing requirements for  
38 dispatching wreckers; amending s. 323.001, F.S., relating  
39 to wrecker company storage facilities; providing  
40 definitions; providing procedures for a law enforcement  
41 agency to place a hold on a stored vehicle; providing for  
42 payment of towing and storage charges; amending s.  
43 323.002, F.S.; providing definitions; providing  
44 requirements for a county or municipality that operates a  
45 wrecker allocation system; providing requirements for the  
46 system; prohibiting an unauthorized wrecker company from  
47 monitoring a police radio or engaging in other activities;  
48 providing penalties; providing requirements for  
49 dispatching wreckers; creating ch. 508, F.S.; providing  
50 definitions; creating the Wrecker Operator Advisory  
51 Council within the Department of Agriculture and Consumer

Page 2 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

52        Services; providing for membership and terms; providing  
53        for reimbursement for travel and per diem expenses;  
54        requiring the council to advise the department on matters  
55        relating to standards and practices in the wrecker  
56        industry; authorizing the department to adopt rules;  
57        requiring wrecker companies to register with the  
58        department; providing requirements for registration  
59        renewal; providing requirements for advertisements;  
60        requiring insurance coverage; requiring the department to  
61        notify the Department of Highway Safety and Motor Vehicles  
62        when a registration has been suspended or revoked;  
63        authorizing the department to deny registration under  
64        certain circumstances; specifying acceptable forms of  
65        payment; establishing a certification program for wrecker  
66        operators; requiring the department to approve courses and  
67        organizations; providing requirements for examinations;  
68        providing for certification in specialized wrecker  
69        services; requiring the department to adopt rules;  
70        providing for certification cards to be issued to wrecker  
71        operators who complete the certification course and pass  
72        the examination; prohibiting the performance of wrecker  
73        services after a specified date unless the company is  
74        registered and obtains certification as required;  
75        authorizing the department to inspect employment records;  
76        providing requirements for continuing education;  
77        specifying prohibited acts; providing administrative,  
78        civil, and criminal penalties; providing for registration  
79        fees; providing for deposit of fees, penalties, and other

Page 3 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

80 funds; providing that the chapter does not apply to  
81 recovery agents; authorizing counties and municipalities  
82 to enact ordinances governing wrecker operators; requiring  
83 that a wrecker company maintain records of its services  
84 for a specified time; requiring a wrecker company to keep  
85 records of its operators continuing education courses for  
86 a specified time; directing organizations that conduct  
87 continuing education courses to keep records for a  
88 specified time; amending s. 713.78, F.S., relating to  
89 liens for recovering, towing, or storing vehicles and  
90 vessels; providing definitions; conforming provisions to  
91 changes made by the act; providing for attorney's fees to  
92 be awarded to the prevailing party for a frivolous claim  
93 of wrongful taking or claim of lien; providing immunity  
94 from liability for a wrecker company, its operators, and  
95 other employees or agents if services are performed with  
96 reasonable care or for complying with the directions of a  
97 law enforcement officer; providing for the owner of a  
98 vehicle or vessel to dispute a claim of lien by a wrecker  
99 company based on a record of sale; clarifying that the  
100 amendments made by the act do not affect the validity of  
101 prior liens; creating s. 713.785, F.S.; authorizing the  
102 imposition of lien by a mobile home transport company for  
103 recovering, towing, or storing a mobile home; providing  
104 definitions; requiring a mobile home transport company to  
105 provide notice of recovery, towing, or storage services;  
106 providing for the filing of a complaint; providing  
107 procedures for the sale of an unclaimed mobile home;

Page 4 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

specifying circumstances under which a mobile home transport company must obtain a certificate of destruction; providing for fees; authorizing the department to adopt rules; providing for fees; providing for issuing certificates of destruction and revalidation stickers; providing procedures for disputing a lien and for discharge of a lien; providing for the posting and repayment of surety; providing for criminal penalties; amending s. 319.30, F.S.; redefining the term "certificate of destruction," to conform; amending s. 715.07, F.S., relating to the towing of vehicles and vessels parked on real property without permission; providing definitions; providing for the towing and removal of vehicles and vessels under certain circumstances; conforming provisions to changes made by the act; providing requirements for towing and storage; prohibiting a property owner from soliciting a wrecker company for a rebate for the privilege of removing vehicles from the owner's property; providing immunity from liability for a wrecker company, its operators, and other employees or agents if services are performed with reasonable care; providing that failure to comply with notice requirements precludes a wrecker company from imposing certain towing or storage charges; providing penalties; repealing s. 1.01(15), F.S., relating to the definition of the term "wrecker operator"; providing an appropriation and authorizing additional positions; providing effective dates.

HB 341

2005  
CS

Be It Enacted by the Legislature of the State of Florida:

Section 1. Effective January 1, 2006, paragraph (b) of subsection (8) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.--

(8) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.--

(b) Wrecker companies ~~operators~~.--Notwithstanding s. 120.57(1)(a), hearings held by the Division of the Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles to deny, suspend, or remove a wrecker company ~~operator~~ from participating in the wrecker allocation ~~rotation~~ system established under ~~by~~ s. 321.051 need not be conducted by an administrative law judge assigned by the division. These hearings shall be held by a hearing officer appointed by the director of the Division of the Florida Highway Patrol.

Section 2. Effective January 1, 2006, section 205.1975, Florida Statutes, is created to read:

205.1975 Wrecker companies; consumer protection.--A county or municipality may not issue or renew an occupational license for the operation of a wrecker company under chapter 508 unless the wrecker company exhibits a current registration from the Department of Agriculture and Consumer Services.

Section 3. Subsection (3) of section 316.530, Florida Statutes, is amended to read:

316.530 Towing requirements.--

(3) Whenever a motor vehicle becomes disabled upon the highways of this state and a wrecker ~~or tow truck~~ is required to

HB 341

2005  
CS

remove it to a repair shop or other appropriate location, if the combined weights of those two vehicles and the loads thereon exceed the maximum allowable weights as established by s. 316.535, no penalty shall be assessed either vehicle or driver. However, this exception shall not apply to the load limits for bridges and culverts established by the department as provided in s. 316.555.

Section 4. For the purpose of incorporating the amendment made by this act to section 320.01, Florida Statutes, in a reference thereto, subsection (4) of section 316.550, Florida Statutes, is reenacted to read:

316.550 Operations not in conformity with law; special permits.--

(4)(a) The Department of Transportation may issue a wrecker special blanket permit to authorize a wrecker as defined in s. 320.01(40) to tow a disabled vehicle as defined in s. 320.01(38) where the combination of the wrecker and the disabled vehicle being towed exceeds the maximum weight limits as established by s. 316.535.

(b) The Department of Transportation must supply the permitted wrecker with a map showing the routes on which the wrecker may safely tow disabled vehicles for all special permit classifications for which the wrecker applies.

Section 5. Subsection (1) of section 316.605, Florida Statutes, is amended to read:

316.605 Licensing of vehicles.--

(1) Every vehicle, at all times while driven, stopped, or parked upon any highways, roads, or streets of this state, shall

HB 341

2005  
CS

192 be licensed in the name of the owner thereof in accordance with  
193 the laws of this state unless such vehicle is not required by  
194 the laws of this state to be licensed in this state and shall,  
195 except as otherwise provided in s. 320.0706 for front-end  
196 registration license plates on truck tractors or wreckers,  
197 display the license plate or both of the license plates assigned  
198 to it by the state, one on the rear and, if two, the other on  
199 the front of the vehicle, each to be securely fastened to the  
200 vehicle outside the main body of the vehicle in such manner as  
201 to prevent the plates from swinging, with all letters, numerals,  
202 printing, writing, and other identification marks upon the  
203 plates clear and distinct and free from defacement, mutilation,  
204 grease, and other obscuring matter, so that they will be plainly  
205 visible and legible at all times 100 feet from the rear or  
206 front. In addition, if only one registration plate is issued for  
207 a motor vehicle that is equipped with a mechanical loading  
208 device that may damage the plate, the plate may be attached to  
209 the front of the vehicle. Nothing shall be placed upon the face  
210 of a Florida plate except as permitted by law or by rule or  
211 regulation of a governmental agency. No license plates other  
212 than those furnished by the state shall be used. However, if  
213 the vehicle is not required to be licensed in this state, the  
214 license plates on such vehicle issued by another state, by a  
215 territory, possession, or district of the United States, or by a  
216 foreign country, substantially complying with the provisions  
217 hereof, shall be considered as complying with this chapter. A  
218 government license plate that is issued to a truck tractor or  
219 heavy truck having a gross vehicle weight of 26,001 pounds or

Page 8 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1



HB 341

2005  
CS

more which is owned by a governmental entity may be placed on  
the front of the vehicle and is in compliance with this chapter.

A violation of this subsection is a noncriminal traffic  
infraction, punishable as a nonmoving violation as provided in  
chapter 318.

Section 6. Subsection (40) of section 320.01, Florida  
Statutes, is amended to read:

320.01 Definitions, general.--As used in the Florida  
Statutes, except as otherwise provided, the term:

(40) "Wrecker" means a tow truck or other ~~any~~ motor  
vehicle that is used to tow, carry, or otherwise transport ~~motor~~  
vehicles or vessels upon the streets and highways of this state  
and that is equipped for that purpose with a boom, winch, car  
carrier, or other similar equipment.

Section 7. Effective January 1, 2006, subsection (8) of  
section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors;  
International Registration Plan.--

(8) If the applicant's name appears on the list referred  
to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a  
license plate or revalidation sticker may not be issued until  
that person's name no longer appears on the list or until the  
person presents a receipt from the clerk showing that the fines  
outstanding have been paid. The tax collector and the clerk of  
the court are each entitled to receive monthly, as costs for  
implementing and administering this subsection, 10 percent of  
the civil penalties and fines recovered from such persons. As  
used in this subsection, the term "civil penalties and fines"

HB 341

2005  
CS

248 does not include a wrecker company's ~~operator's~~ lien as  
249 described in s. 713.78(13). If the tax collector has private tag  
250 agents, such tag agents are entitled to receive a pro rata share  
251 of the amount paid to the tax collector, based upon the  
252 percentage of license plates and revalidation stickers issued by  
253 the tag agent compared to the total issued within the county.  
254 The authority of any private agent to issue license plates shall  
255 be revoked, after notice and a hearing as provided in chapter  
256 120, if he or she issues any license plate or revalidation  
257 sticker contrary to the provisions of this subsection. This  
258 section applies only to the annual renewal in the owner's birth  
259 month of a motor vehicle registration and does not apply to the  
260 transfer of a registration of a motor vehicle sold by a motor  
261 vehicle dealer licensed under this chapter, except for the  
262 transfer of registrations which is inclusive of the annual  
263 renewals. This section does not affect the issuance of the title  
264 to a motor vehicle, notwithstanding s. 319.23(7)(b).

265 Section 8. Section 320.0706, Florida Statutes, is amended  
266 to read:

267 320.0706 Display of license plates on trucks.--The owner  
268 of any commercial truck of gross vehicle weight of 26,001 pounds  
269 or more shall display the registration license plate on both the  
270 front and rear of the truck in conformance with all the  
271 requirements of s. 316.605 that do not conflict with this  
272 section. However, the owner of a truck tractor or a wrecker must  
273 ~~shall be required to~~ display the registration license plate only  
274 on the front of such vehicle.

HB 341

2005  
CS

275 Section 9. For the purpose of incorporating the amendment  
276 made by this act to section 320.01, Florida Statutes, in  
277 references thereto, paragraphs (d) and (e) of subsection (5) of  
278 section 320.08, Florida Statutes, are reenacted to read:

279 320.08 License taxes.--Except as otherwise provided  
280 herein, there are hereby levied and imposed annual license taxes  
281 for the operation of motor vehicles, mopeds, motorized bicycles  
282 as defined in s. 316.003(2), and mobile homes, as defined in s.  
283 320.01, which shall be paid to and collected by the department  
284 or its agent upon the registration or renewal of registration of  
285 the following:

286 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;  
287 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

288 (d) A wrecker, as defined in s. 320.01(40), which is used  
289 to tow a vessel as defined in s. 327.02(36), a disabled,  
290 abandoned, stolen-recovered, or impounded motor vehicle as  
291 defined in s. 320.01(38), or a replacement motor vehicle as  
292 defined in s. 320.01(39): \$30 flat.

293 (e) A wrecker, as defined in s. 320.01(40), which is used  
294 to tow any motor vehicle, regardless of whether or not such  
295 motor vehicle is a disabled motor vehicle as defined in s.  
296 320.01(38), a replacement motor vehicle as defined in s.  
297 320.01(39), a vessel as defined in s. 327.02(36), or any other  
298 cargo, as follows:

299 1. Gross vehicle weight of 10,000 pounds or more, but less  
300 than 15,000 pounds: \$87 flat.

301 2. Gross vehicle weight of 15,000 pounds or more, but less  
302 than 20,000 pounds: \$131 flat.

HB 341

2005  
CS

3. Gross vehicle weight of 20,000 pounds or more, but less than 26,000 pounds: \$186 flat.

4. Gross vehicle weight of 26,000 pounds or more, but less than 35,000 pounds: \$240 flat.

5. Gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds: \$300 flat.

6. Gross vehicle weight of 44,000 pounds or more, but less than 55,000 pounds: \$572 flat.

7. Gross vehicle weight of 55,000 pounds or more, but less than 62,000 pounds: \$678 flat.

8. Gross vehicle weight of 62,000 pounds or more, but less than 72,000 pounds: \$800 flat.

9. Gross vehicle weight of 72,000 pounds or more: \$979 flat.

Section 10. Subsection (1) of section 320.0821, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

320.0821 Wrecker license plates.--

(1) The department shall issue one a wrecker license plate, regardless of gross vehicle weight, to the owner of any motor vehicle that is used to tow, carry, or otherwise transport motor vehicles and that is equipped for that purpose with a boom, winch, carrier, or other similar equipment, except a motor vehicle registered under the International Registration Plan, upon application and payment of the appropriate license tax and fees in accordance with s. 320.08(5)(d) or (e).

(5) A wrecker license plate must be displayed on the front of such vehicle.

HB 341

2005  
CS

331 Section 11. Effective January 1, 2006, subsection (1) of  
332 section 320.0821, Florida Statutes, as amended by this act, is  
333 amended to read:

334 320.0821 Wrecker license plates.--

335 (1) The department shall issue one wrecker license plate,  
336 regardless of gross vehicle weight, to the owner of a wrecker  
337 ~~any motor vehicle that is used to tow, carry, or otherwise~~  
338 ~~transport motor vehicles and that is equipped for that purpose~~  
339 ~~with a boom, winch, carrier, or other similar equipment, except~~  
340 ~~a motor vehicle registered under the International Registration~~  
341 ~~Plan~~, upon application and payment of the appropriate license  
342 tax and fees in accordance with s. 320.08(5)(d) or (e). However,  
343 the department may issue or renew a wrecker license plate only  
344 if the owner of the wrecker is a wrecker company registered  
345 under chapter 508. This section does not apply to a motor  
346 vehicle registered under the International Registration Plan.

347 Section 12. Paragraph (a) of subsection (1) of section  
348 320.13, Florida Statutes, is amended to read:

349 320.13 Dealer and manufacturer license plates and  
350 alternative method of registration.--

351 (1)(a) Any licensed motor vehicle dealer and any licensed  
352 mobile home dealer may, upon payment of the license tax imposed  
353 by s. 320.08(12), secure one or more dealer license plates,  
354 which are valid for use on motor vehicles or mobile homes owned  
355 by the dealer to whom such plates are issued while the motor  
356 vehicles are in inventory and for sale, or while being operated  
357 in connection with such dealer's business, but are not valid for  
358 use for hire. Dealer license plates may not be used on any ~~tow~~

Page 13 of 91

HB 341

2005  
CS

~~truck or wrecker as defined in s. 320.01 unless the tow truck or~~  
wrecker is being demonstrated for sale, and the dealer license  
plates may not be used on a vehicle used to transport another  
motor vehicle for the motor vehicle dealer.

Section 13. Effective January 1, 2006, section 321.051,  
Florida Statutes, is amended to read:

(Substantial rewording of section. See  
s. 321.051, F.S., for present text.)

321.051 Florida Highway Patrol wrecker allocation system;  
penalties for operation outside of system.--

(1) As used in this section, the term:

(a) "Division" means the Division of the Florida Highway  
Patrol within the Department of Highway Safety and Motor  
Vehicles.

(b) "Authorized wrecker company" means a wrecker company  
designated by the division as part of its wrecker allocation  
system.

(c) "Unauthorized wrecker company" means a wrecker company  
not designated by the division as part of its wrecker allocation  
system.

(d) "Wrecker company" has the same meaning ascribed in s.  
508.01.

(e) "Wrecker operator" has the same meaning ascribed in s.  
508.01.

(f) "Wrecker services" has the same meaning ascribed in s.  
508.01.

(2)(a) The division may establish within areas designated  
by the division a wrecker allocation system, using qualified,

HB 341

2005  
CS

reputable wrecker companies, for the removal from crash scenes and the storage of wrecked or disabled vehicles when the owner or operator is incapacitated, unavailable, or leaves the procurement of wrecker services to the officer at the scene and for the removal and storage of abandoned vehicles.

(b) The wrecker allocation system may use only wrecker companies registered under chapter 508. Each reputable wrecker company registered under chapter 508 is eligible for use in the system if its equipment and wrecker operators meet the recognized safety qualifications and mechanical standards set by the division's rules for the size of vehicle they are designed to handle. The division may limit the number of wrecker companies participating in the wrecker allocation system.

(c) The division may establish maximum rates for the towing and storage of vehicles removed at the division's request if those rates are not established by a county or municipality under s. 125.0103 or s. 166.043. These rates are not rules for the purpose of chapter 120; however, the Department of Highway Safety and Motor Vehicles shall adopt rules prescribing the procedures for setting these rates.

(d) Notwithstanding chapter 120, a final order of the department denying, suspending, or revoking a wrecker company's participation in the wrecker allocation system may be appealed only in the manner and within the time provided by the Florida Rules of Appellate Procedure by a writ of certiorari issued by the circuit court in the county in which the wrecker company's primary place of business is located, as evidenced by the wrecker company's registration under chapter 508.

HB 341

2005  
CS

415       (3)(a) An unauthorized wrecker company, its wrecker  
416 operators, or its other employees or agents may not monitor a  
417 police radio for communications between patrol field units and  
418 the dispatcher in order to determine the location of a wrecked  
419 or disabled vehicle for the purpose of dispatching its wrecker  
420 operator to drive by the scene of the vehicle in a manner  
421 described in paragraph (b) or paragraph (c). Any person who  
422 violates this paragraph commits a noncriminal violation,  
423 punishable as provided in s. 775.083.

424       (b) A wrecker operator dispatched by an unauthorized  
425 wrecker company may not drive by the scene of a wrecked or  
426 disabled vehicle before the arrival of the wrecker operator  
427 dispatched by the authorized wrecker company, initiate contact  
428 with the owner or operator of the vehicle by soliciting or  
429 offering wrecker services, or tow the vehicle. Any person who  
430 violates this paragraph commits a misdemeanor of the second  
431 degree, punishable as provided in s. 775.082 or s. 775.083.

432       (c) When a wrecker operator dispatched by an unauthorized  
433 wrecker company drives by the scene of a wrecked or disabled  
434 vehicle and the owner or operator initiates contact by signaling  
435 the wrecker operator to stop and provide wrecker services, the  
436 wrecker operator must disclose to the owner or operator of the  
437 vehicle that he or she was not dispatched by the authorized  
438 wrecker company designated as part of the wrecker allocation  
439 system and must disclose, in writing, what charges for towing  
440 and storage will apply before the vehicle is connected to the  
441 towing apparatus. Any person who violates this paragraph commits



HB 341

2005  
CS

442 a misdemeanor of the second degree, punishable as provided in s.  
443 775.082 or s. 775.083.

444 (d) A wrecker operator may not falsely identify himself or  
445 herself as being part of, or as being employed by a wrecker  
446 company that is part of, the wrecker allocation system at the  
447 scene of a wrecked or disabled vehicle. Any person who violates  
448 this paragraph commits a misdemeanor of the first degree,  
449 punishable as provided in s. 775.082 or s. 775.083.

450 (4) This section does not prohibit, or in any way prevent,  
451 the owner or operator of a vehicle involved in a crash or  
452 otherwise disabled from contacting any wrecker company for the  
453 provision of wrecker services, regardless of whether the wrecker  
454 company is an authorized wrecker company or not. However, if a  
455 law enforcement officer determines that the disabled vehicle or  
456 vehicle cargo is a public safety hazard, the officer may, in the  
457 interest of public safety, dispatch an authorized wrecker  
458 company if the officer believes that the authorized wrecker  
459 company would arrive at the scene before the wrecker company  
460 requested by the owner or operator of the disabled vehicle or  
461 vehicle cargo.

462 (5) A law enforcement officer may dispatch an authorized  
463 wrecker company out of rotation to the scene of a wrecked or  
464 disabled vehicle if the authorized wrecker company next on  
465 rotation is not equipped to provide the required wrecker  
466 services and the out-of-rotation authorized wrecker company is  
467 available with the required equipment. However, this subsection  
468 does not prohibit or prevent the owner or operator of a vehicle  
469 involved in a crash or otherwise disabled from contacting any

HB 341

2005  
CS

wrecker company who is properly equipped to provide the required wrecker services, regardless of whether the wrecker company is an authorized wrecker company or not, unless the law enforcement officer determines that the wrecked or disabled vehicle is a public safety hazard and the officer believes that the authorized wrecker company would arrive at the scene before the wrecker company requested by the owner or operator.

Section 14. Effective January 1, 2006, section 323.001, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 323.001, F.S., for present text.)

323.001 Wrecker company storage facilities; vehicle holds.--

(1) As used in this section, the term:

(a) "Business day" means a day other than a Saturday, Sunday, or federal or state legal holiday.

(b) "Wrecker company" has the same meaning ascribed in s. 508.01.

(2) A law enforcement agency may place a hold on a motor vehicle stored within a wrecker company's storage facility for 5 business days, thereby preventing a motor vehicle from being released to its owner.

(3) To extend a hold, the law enforcement agency must notify the wrecker company in writing within the 5 business days. If notification is not made within the 5 business days, the wrecker company must release the vehicle to the designated person under s. 713.78.

HB 341

2005  
CS

497        (a) If the hold is extended beyond the 5 business days,  
498 the law enforcement agency may have the vehicle removed to a  
499 designated impound lot, in which event the vehicle may not be  
500 released by the law enforcement agency to the owner or  
501 lienholder of the vehicle until proof of payment of the towing  
502 and storage charges incurred by the wrecker company is presented  
503 to the law enforcement agency.

504        (b) If the law enforcement agency chooses to have the  
505 vehicle remain at the wrecker company's storage facility for  
506 more than 5 business days under the written notification, the  
507 law enforcement agency is responsible for paying the storage  
508 charges incurred by the wrecker company for the requested  
509 extended period. In such an event, the owner or lienholder is  
510 responsible for paying the accrued towing and storage charges  
511 for the first 5 business days, or any period less than the first  
512 5 business days, if the law enforcement agency moves the vehicle  
513 from the wrecker company's storage facility to a designated  
514 impound lot or provides written notification to extend the hold  
515 on the vehicle before the expiration of the 5 business days.

516        (c) The towing and storage rates for the owner or  
517 lienholder of the held vehicle may not exceed the rates for the  
518 law enforcement agency.

519        (4) If there is a judicial finding of no probable cause  
520 for having continued the immobilization or impoundment, the law  
521 enforcement agency ordering the hold must pay the accrued  
522 charges for any towing and storage.

523        (5) The requirements for a written hold apply when the  
524 following conditions are present:

HB 341

2005  
CS

525        (a) The law enforcement officer has probable cause to  
526 believe that the vehicle should be seized and forfeited under  
527 the Florida Contraband Forfeiture Act, ss. 932.701-932.707;

528        (b) The law enforcement officer has probable cause to  
529 believe that the vehicle should be seized and forfeited under  
530 chapter 370 or chapter 372;

531        (c) The law enforcement officer has probable cause to  
532 believe that the vehicle was used as the means of committing a  
533 crime;

534        (d) The law enforcement officer has probable cause to  
535 believe that the vehicle is itself evidence that tends to show  
536 that a crime has been committed or that the vehicle contains  
537 evidence, which cannot readily be removed, which tends to show  
538 that a crime has been committed;

539        (e) The law enforcement officer has probable cause to  
540 believe that the vehicle was involved in a traffic accident  
541 resulting in death or personal injury and should be sealed for  
542 investigation and collection of evidence by a vehicular homicide  
543 investigator;

544        (f) The vehicle is impounded or immobilized under s.  
545 316.193 or s. 322.34; or

546        (g) The law enforcement officer is complying with a court  
547 order.

548        (6) The hold must be in writing and must specify:

549        (a) The name and agency of the law enforcement officer  
550 placing the hold on the vehicle.

551        (b) The date and time the hold is placed on the vehicle.

HB 341

2005  
CS

552        (c) A general description of the vehicle, including its  
553        color, make, model, body style, and year; vehicle identification  
554        number (VIN); registration license plate number, state, and  
555        year; and validation sticker number, state, and year.

556        (d) The specific reason for placing the hold.

557        (e) The condition of the vehicle.

558        (f) The location where the vehicle is being held.

559        (g) The name, address, and telephone number of the wrecker  
560        company and the storage facility.

561        (7) A wrecker company's storage facility must comply with  
562        a hold placed by a law enforcement officer, including  
563        instructions for inside or outside storage. A wrecker company's  
564        storage facility may not release a motor vehicle subject to a  
565        hold to any person except as directed by the law enforcement  
566        agency placing the hold.

567        (8) When a vehicle owner is found guilty of, or pleads  
568        nolo contendere to, the offense that resulted in a hold being  
569        placed on his or her vehicle, regardless of the adjudication of  
570        guilt, the owner must pay the accrued towing and storage charges  
571        assessed against the vehicle.

572        Section 15. Effective January 1, 2006, section 323.002,  
573        Florida Statutes, is amended to read:

574        (Substantial rewording of section. See  
575        s. 323.002, F.S., for present text.)

576        323.002 County and municipal wrecker allocation systems;  
577        penalties for operation outside of system.--

578        (1) As used in this section, the term:

HB 341

2005  
CS

579        (a) "Authorized wrecker company" means a wrecker company  
580 designated as part of the wrecker allocation system established  
581 by the governmental unit having jurisdiction over the scene of a  
582 wrecked or disabled vehicle.

583        (b) "Unauthorized wrecker company" means a wrecker company  
584 not designated as part of the wrecker allocation system  
585 established by the governmental unit having jurisdiction over  
586 the scene of a wrecked or disabled vehicle.

587        (c) "Wrecker allocation system" means a system for the  
588 towing or removal of wrecked, disabled, or abandoned vehicles,  
589 similar to the Florida Highway Patrol wrecker allocation system  
590 described in s. 321.051(2), under which a county or municipality  
591 contracts with one or more wrecker companies registered under  
592 chapter 508 for the towing or removal of wrecked, disabled, or  
593 abandoned vehicles from accident scenes, streets, or highways.  
594 Each wrecker allocation system must use a method for  
595 apportioning the towing assignments among the eligible wrecker  
596 companies through the creation of geographic zones, a rotation  
597 schedule, or a combination of these methods.

598        (d) "Wrecker company" has the same meaning ascribed in s.  
599 508.01.

600        (e) "Wrecker operator" has the same meaning ascribed in s.  
601 508.01.

602        (f) "Wrecker services" has the same meaning ascribed in s.  
603 508.01.

604        (2) In a county or municipality that operates a wrecker  
605 allocation system:

HB 341

2005  
CS

606        (a) The wrecker allocation system may only use wrecker  
607        companies registered under chapter 508.

608        (b) An unauthorized wrecker company, its wrecker  
609        operators, or its other employees or agents may not monitor a  
610        police radio for communications between patrol field units and  
611        the dispatcher in order to determine the location of a wrecked  
612        or disabled vehicle for the purpose of dispatching its wrecker  
613        operator to drive by the scene of the vehicle in a manner  
614        described in paragraph (c) or paragraph (d). Any person who  
615        violates this paragraph commits a noncriminal violation,  
616        punishable as provided in s. 775.083.

617        (c) A wrecker operator dispatched by an unauthorized  
618        wrecker company may not drive by the scene of a wrecked or  
619        disabled vehicle before the arrival of the wrecker operator  
620        dispatched by the authorized wrecker company, initiate contact  
621        with the owner or operator of the vehicle by soliciting or  
622        offering wrecker services, or tow the vehicle. Any person who  
623        violates this paragraph commits a misdemeanor of the second  
624        degree, punishable as provided in s. 775.082 or s. 775.083.

625        (d) When a wrecker operator dispatched by an unauthorized  
626        wrecker company drives by the scene of a wrecked or disabled  
627        vehicle and the owner or operator initiates contact by signaling  
628        the wrecker operator to stop and provide wrecker services, the  
629        wrecker operator must disclose to the owner or operator of the  
630        vehicle that he or she was not dispatched by the authorized  
631        wrecker company designated as part of the wrecker allocation  
632        system and must disclose, in writing, what charges for towing  
633        and storage will apply before the vehicle is connected to the

HB 341

2005  
CS

634 towing apparatus. Any person who violates this paragraph commits  
635 a misdemeanor of the second degree, punishable as provided in s.  
636 775.082 or s. 775.083.

637 (e) A wrecker operator may not falsely identify himself or  
638 herself as being part of, or as being employed by a wrecker  
639 company that is part of, the wrecker allocation system at the  
640 scene of a wrecked or disabled vehicle. Any person who violates  
641 this paragraph commits a misdemeanor of the first degree,  
642 punishable as provided in s. 775.082 or s. 775.083.

643 (3) This section does not prohibit, or in any way prevent,  
644 the owner or operator of a vehicle involved in a crash or  
645 otherwise disabled from contacting any wrecker company for the  
646 provision of wrecker services, regardless of whether the wrecker  
647 company is an authorized wrecker company or not. However, if a  
648 law enforcement officer determines that the disabled vehicle or  
649 vehicle cargo is a public safety hazard, the officer may, in the  
650 interest of public safety, dispatch an authorized wrecker  
651 company if the officer believes that the authorized wrecker  
652 company would arrive at the scene before the wrecker company  
653 requested by the owner or operator of the disabled vehicle or  
654 vehicle cargo.

655 (4) A law enforcement officer may dispatch an authorized  
656 wrecker company out of rotation to the scene of a wrecked or  
657 disabled vehicle if the authorized wrecker company next on  
658 rotation is not equipped to provide the required wrecker  
659 services and the out-of-rotation authorized wrecker company is  
660 available with the required equipment. However, this subsection  
661 does not prohibit or prevent the owner or operator of a vehicle

Page 24 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1



HB 341

2005  
CS

involved in a crash or otherwise disabled from contacting any wrecker company that is properly equipped to provide the required wrecker services, regardless of whether the wrecker company is an authorized wrecker company or not, unless the law enforcement officer determines that the wrecked or disabled vehicle is a public safety hazard and the officer believes that the authorized wrecker company would arrive at the scene before the wrecker company requested by the owner or operator.

Section 16. Chapter 508, Florida Statutes, consisting of sections 508.01, 508.02, 508.03, 508.04, 508.05, 508.06, 508.061, 508.07, 508.08, 508.09, 508.10, 508.11, 508.12, 508.13, 508.14, 508.15, 508.16, 508.17, 508.18, 508.19, and 508.20, is created to read:

CHAPTER 508

WRECKER SERVICES

508.01 Definitions.--As used in this chapter, the term:

(1) "Business entity" means any form of corporation, limited liability company, partnership, association, cooperative, joint venture, business trust, sole proprietorship, or self-employed person conducting business in this state.

(2) "Council" means the Wrecker Operator Advisory Council.

(3) "Department" means the Department of Agriculture and Consumer Services.

(4) "Specialized wrecker services" means those wrecker services described in s. 508.08 for which a wrecker operator must have an endorsement to perform those services.

(5) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls 10 percent or more of

HB 341

2005  
CS

an ownership interest in a wrecker company, regardless of whether the natural person owns or controls the ownership interest through one or more natural persons or one or more proxies, powers of attorney, nominees, business entities, or any combination thereof.

(6) "Vehicle" means any vehicle of a type that may be registered under chapter 320 for operation on the roads of this state, regardless of whether the vehicle is actually registered. The term does not include a mobile home or manufactured home as defined in s. 320.01.

(7) "Vessel" means every description of watercraft, barge, and air boat used or capable of being used as a means of transportation on water, other than a seaplane or a documented vessel as defined in s. 327.02.

(8) "Wrecker" has the same meaning ascribed in s. 320.01.

(9) "Wrecker company" means a business entity engaged for hire in the business of towing, carrying, or transporting vehicles or vessels by wrecker upon the streets and highways of this state. The term does not include a person regularly engaged in the business of transporting mobile homes.

(10) "Wrecker operator" means a person who performs wrecker services.

(11) "Wrecker services" means towing, carrying, or otherwise transporting vehicles or vessels by wrecker upon the streets and highways of this state for hire. The term includes, but is not limited to, each of the following:

(a) Driving a wrecker.

HB 341

2005  
CS

717       (b) Loading, securing, and unloading a vehicle or vessel  
718 on a wrecker using a boom, winch, car carrier, or other similar  
719 equipment.

720       (c) Towing or removal of a wrecked, disabled, or abandoned  
721 vehicle under the Florida Highway Patrol wrecker allocation  
722 system pursuant to s. 321.051 or under a county or municipal  
723 wrecker allocation system pursuant to s. 323.002.

724       (d) Towing, recovery, or removal of a vehicle or vessel  
725 under s. 713.78.

726       (e) Towing, transportation, or removal of a vehicle or  
727 vessel parked on real property without permission under s.  
728 715.07.

729       (f) Recovery of a vehicle or vessel.

730       508.02 Wrecker Operator Advisory Council.--

731       (1) The Wrecker Operator Advisory Council is created  
732 within the department. The council shall advise and assist the  
733 department in administering this chapter.

734       (2)(a) The council shall be composed of six members  
735 appointed by the Commissioner of Agriculture. In addition, the  
736 executive director of the Professional Wrecker Operators of  
737 Florida, Inc., shall serve ex officio as a voting member of the  
738 council.

739       (b) Three members of the council must each be an ultimate  
740 equitable owner of a wrecker company who has been an ultimate  
741 equitable owner of that company for at least 5 years before his  
742 or her appointment; one member must be a wrecker operator who is  
743 not an ultimate equitable owner of a wrecker company and who has  
744 been a wrecker operator for at least 5 years before his or her

HB 341

2005  
CS

appointment; and two members must be laypersons. Each member must be a resident of this state. This paragraph expires July 1, 2011.

(c) Effective July 1, 2011, three members of the council must each be an ultimate equitable owner of a wrecker company registered under this chapter who has been an ultimate equitable owner of that company registered for at least 5 years before his or her appointment; one member must be a wrecker operator certified under this chapter who is not an ultimate equitable owner of a wrecker company and who has been a wrecker operator certified for at least 5 years before his or her appointment; and two members must be laypersons. Each member must be a resident of this state.

(3) The term of each member of the council is 4 years, except, to establish staggered terms, two members who are owners of wrecker companies and one layperson shall be appointed initially for a 2-year term. Members may be reappointed for additional terms not to exceed 8 years of consecutive service. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(4)(a) From among its members, the council shall annually elect a chair, who shall preside over the meetings of the council, and a vice chair.

(b) In conducting its meetings, the council shall use accepted rules of procedure. The department shall keep a complete record of each meeting which must show the names of members present and the actions taken. These records and other

HB 341

2005  
CS

documents about matters within the jurisdiction of the council  
must be kept on file with the department.

(5) The members of the council shall serve without  
compensation but are entitled to reimbursement of travel and per  
diem expenses under s. 112.061.

(6) The department shall provide administrative and staff  
support services relating to the functions of the council.

(7) The council shall review the rules adopted by the  
department to administer this chapter and shall advise the  
department on matters relating to industry standards and  
practices and other issues that require technical expertise and  
consultation or that promote better consumer protection in the  
wrecker industry.

508.03 Rulemaking authority.--The department may adopt  
rules under ss. 120.536(1) and 120.54 to administer this  
chapter.

508.04 Wrecker companies; registration  
required.--Effective January 1, 2006:

(1) A person may not own, operate, solicit business,  
advertise wrecker services, or otherwise engage for hire in the  
business of a wrecker company in this state unless that person  
is registered with the department under this chapter.

(2) A person applying for or renewing a local occupational  
license to engage for hire in the business of a wrecker company  
must exhibit a current registration certificate from the  
department before the local occupational license may be issued  
or reissued under chapter 205.

HB 341

2005  
CS

799        (3) This section does not apply to a motor vehicle repair  
800 shop registered with the department under s. 559.904 which  
801 derives at least 80 percent of its gross sales from motor  
802 vehicle repairs, or to any franchised motor vehicle dealers  
803 licensed pursuant to s. 320.27 when wrecker services are  
804 incidental to the operation of the franchise.

805        508.05 Registration requirements; renewal of  
806 registrations.--

807        (1) Each wrecker company engaged or attempting to engage  
808 for hire in the business of towing, carrying, or transporting  
809 vehicles, vessels, or mobile homes by wrecker upon the streets  
810 and highways of this state must annually register with the  
811 department on forms prescribed by the department. The  
812 application for registration must include at least the following  
813 information:

814        (a) The name and federal employer identification number of  
815 the wrecker company.

816        (b) The mailing address, physical address, and telephone  
817 number of the wrecker company's primary place of business.

818        (c) The fictitious name under which the wrecker company  
819 transacts business in this state.

820        (d) The full name, residence address, business address,  
821 and telephone number of the applicant. If the applicant is other  
822 than a natural person, the application must also contain the  
823 full name, residence address, business address, telephone  
824 number, and federal employer identification number, if  
825 applicable, of each ultimate equitable owner of the business

HB 341

2005  
CS

entity and each officer, director, partner, manager, member, or managing member of the entity.

(e) If the applicant is other than a natural person, the full name of the business entity's registered agent and the address of the registered office for service of process.

(f) The physical address and telephone number of each business location and each storage facility where the wrecker company stores towed vehicles, vessels, or mobile homes.

(2) Each initial and renewal application for registration must be accompanied by the registration fee prescribed in s. 508.16.

(3) Each initial application for registration must be accompanied by a complete set of the applicant's fingerprints taken by a law enforcement agency. If the applicant is other than a natural person, a complete set of fingerprints must also be filed for each ultimate equitable owner of the business entity and each officer, director, partner, manager, member, or managing member of the entity. The department shall submit the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. The applicant must also pay the Department of Law Enforcement a fingerprint processing fee of \$23 for state processing, and an additional fee for federal processing, for each applicant's name submitted. Registration renewal applications need not be accompanied by a set of fingerprints for an individual who previously submitted a set of fingerprints

HB 341

2005  
CS

853 to the department as part of a prior year's registration  
854 application.

855 (4) The department shall review each application in  
856 accordance with s. 120.60 and shall issue a registration  
857 certificate, in the form and size prescribed by the department,  
858 to each wrecker company whose application is approved. The  
859 certificate must show at least the name and address of the  
860 wrecker company and the registration number. The registration  
861 certificate must be prominently displayed in the wrecker  
862 company's primary place of business.

863 (5) Each advertisement of a wrecker company must include  
864 the phrase "Fla. Wrecker Co. Reg. No. ." For the purpose of  
865 this subsection, the term "advertisement" means a printed or  
866 graphic statement made in a newspaper or other publication or  
867 contained in any notice, handbill, or sign, including signage on  
868 a vehicle, flyer, catalog, or letter.

869 (6) A registration is invalid for a wrecker company  
870 transacting business at a place other than the location  
871 designated in the registration application unless the department  
872 is first notified in writing before the change of location. A  
873 registration issued under this chapter is not transferable or  
874 assignable, and a wrecker company may not conduct business under  
875 a name other than as registered. A wrecker company desiring to  
876 change its registered name, location, or registered agent for  
877 service of process at a time other than upon renewal of  
878 registration must notify the department of the change.

879 (7)(a) Each registration must be renewed annually on or  
880 before the expiration date of the current registration. A late



HB 341

2005  
CS

fee of \$25 must be paid, in addition to the registration fee or any other penalty, for a registration renewal application that is received by the department after the expiration date of the current registration. The department may not issue a registration until all fees are paid.

(b) A wrecker company whose primary place of business is located within a county or municipality that requires, by local ordinance, a local occupational license under chapter 205 may not renew a license under this chapter unless the wrecker company obtains the occupational license from the county or municipality.

(8) Each wrecker company must provide the department with a certificate of insurance for the required insurance coverage under s. 627.7415 before the department may issue the registration certificate for an initial or renewal registration. The department must be named as a certificateholder on the insurance certificate and must be notified at least 30 days before any change in insurance coverage.

(9) The department shall notify the Department of Highway Safety and Motor Vehicles when a registration issued under this chapter has been suspended or revoked by order of the department. Notification must be sent within 10 days after the department issues the suspension or revocation order.

508.06 Denial of registration.--The department may deny, revoke, or refuse to renew the registration of a wrecker company based upon a determination that the applicant or, if the applicant is other than a natural person, the wrecker company or

HB 341

2005  
CS

any of its ultimate equitable owners, officers, directors,  
partners, managers, members, or managing members has:

(1) Not met the requirements for registration under this chapter;

(2) Been convicted of, found guilty of, or pled guilty or nolo contendere to, regardless of the adjudication of guilt, a felony within the last 10 years;

(3) Been convicted of, found guilty of, or pled guilty or nolo contendere to, regardless of the adjudication of guilt, a crime within the last 10 years involving repossession of a motor vehicle under chapter 493; repair of a motor vehicle under ss. 559.901-559.9221; theft of a motor vehicle under s. 812.014; carjacking under s. 812.133; operation of a chop shop under s. 812.16; failure to maintain records of motor vehicle parts and accessories under s. 860.14; airbag theft or use of fake airbags under s. 860.145 or s. 860.146; overcharging for repairs and parts under s. 860.15; or a violation of towing or storage requirements for a motor vehicle under s. 321.051, chapter 323, s. 713.78, s. 715.07, or this chapter;

(4) Not satisfied a civil fine or penalty arising out of an administrative or enforcement action brought by the department, another governmental agency, or a private person based upon conduct involving a violation of this chapter;

(5) Pending against him or her a criminal, administrative, or enforcement proceeding in any jurisdiction based upon conduct involving a violation of this chapter; or

(6) A judgment entered against him or her in an action brought by the department under this chapter.

HB 341

2005  
CS

936        508.061 Acceptable forms of payment.--A wrecker company  
937 shall accept a minimum of two of the following forms of payment:

938        (1) Cash, cashier's check, money order, or traveler's  
939 check;

940        (2) Valid personal check, showing upon its face the name  
941 and address of the vehicle or vessel owner or authorized  
942 representative; or

943        (3) Valid credit card, which shall include, but not be  
944 limited to, Visa or MasterCard.

945        508.07 Wrecker operator certification program.--

946        (1) The department, in consultation with the council,  
947 shall establish a wrecker operator certification program by  
948 December 31, 2005. Under this program, the council shall approve  
949 certification courses for wrecker operators conducted by  
950 approved organizations. The council shall prescribe the minimum  
951 curricula for these courses, which must comprise at least 16  
952 hours, equally apportioned between theoretical instruction and  
953 practical training. The council must approve each organization  
954 and its certification course before the course is accepted for  
955 certification of wrecker operators under this chapter.

956        (2) Each approved wrecker operator certification course  
957 must include a certification examination demonstrating a wrecker  
958 operator's knowledge, skills, and abilities in performing  
959 wrecker services and in the instruction and training of the  
960 certification course. The council must approve each  
961 certification examination before the examination is accepted for  
962 certification of wrecker operators under this chapter.

HB 341

2005  
CS

963       (3) Each organization conducting an approved wrecker  
964 operator certification course must issue on forms prescribed by  
965 the department a certificate to each wrecker operator who  
966 completes the approved certification course or who passes the  
967 approved certification examination.

968       508.08 Specialized wrecker services.--

969       (1) In addition to the minimum curricula for certification  
970 of wrecker operators, each approved certification course must  
971 offer optional instruction, training, and examination of wrecker  
972 operators for each of the following specialized wrecker  
973 services:

974       (a) Light duty.--Towing and winching a passenger vehicle,  
975 and uprighting such an overturned vehicle, including the proper  
976 use of chains, wire rope, and straps.

977       (b) Medium duty.--Towing and winching a medium-sized  
978 commercial vehicle, and uprighting such an overturned vehicle.

979       (c) Heavy duty.--Towing and winching a standard large-  
980 sized commercial vehicle, and uprighting such an overturned  
981 vehicle.

982       (d) Ultra-heavy duty.--Towing and winching a specialty  
983 large-sized commercial vehicle or another complex vehicle, and  
984 uprighting such an overturned vehicle.

985       (e) Rollback wrecker.--Proper loading, securing,  
986 transporting, and unloading of a vehicle on a flatbed-rollback  
987 wrecker.

988       (f) Hazardous materials.--Awareness of hazardous  
989 materials. Instruction and training for this wrecker service  
990 must comprise at least 8 hours in order to be approved.

HB 341

2005  
CS

991        (g) Air cushions.--Proper use of air cushions in the  
992 recovery of a heavy-duty vehicle.

993        (2) The department shall adopt rules prescribing specific  
994 standards to further define each of the specialized wrecker  
995 services described in subsection (1). The council must approve  
996 the instruction, training, and examination for a specialized  
997 wrecker service before the specialized wrecker service is  
998 accepted for endorsement of a wrecker operator's certification  
999 under this chapter.

1000       (3) Each organization conducting an approved wrecker  
1001 operator certification course must issue on forms prescribed by  
1002 the department a certificate to each wrecker operator who  
1003 completes the approved instruction and training for a  
1004 specialized wrecker service or who passes the approved  
1005 endorsement examination for that specialized wrecker service.

1006       508.09 Certification cards.--

1007       (1) Each organization conducting an approved wrecker  
1008 operator certification course must issue a certification card to  
1009 each wrecker operator who completes the approved certification  
1010 course and passes the approved certification examination. The  
1011 department must approve the form of the certification cards  
1012 issued by each organization. Each certification card must  
1013 include the wrecker operator's name, a color photograph or  
1014 digital image of the wrecker operator, and the expiration date  
1015 of the certification card.

1016       (2) Each certification card must also include the wrecker  
1017 operator's applicable endorsements for specialized wrecker  
1018 services, for which the wrecker operator completed the approved

HB 341

2005  
CS

instruction and training for the specialized wrecker service and passed the approved endorsement examination for that specialized wrecker service.

(3) The department may adopt rules governing the issuance of a certification card to a wrecker operator who:

(a) Completes a certification course and passes a certification examination in another state which are substantially equivalent to the approved certification courses and approved certification examinations in this state.

(b) Completed a certification course and passed a certification examination in this state between January 1, 2000, and December 31, 2005, which are substantially equivalent to the approved certification courses and the approved certification examinations. This paragraph expires July 1, 2006.

(c) Completed instruction and training for a specialized wrecker service and passed an endorsement examination for that specialized wrecker service between January 1, 2000, and December 31, 2005, which are substantially equivalent to the approved instruction and training and the approved endorsement examinations. This paragraph expires July 1, 2006.

For the purposes of this subsection, the council shall approve each certification examination in another state, and shall approve the instruction, training, and examination for each specialized wrecker service in another state, which the council determines are substantially equivalent to the approved certification courses and approved certification examinations in this state or to the approved instruction, training, and

HB 341

2005  
CS

endorsement examinations for a specialized wrecker service in  
this state.

(4) Each certification card expires 5 years after the date  
of issuance.

(5) Certification cards shall be issued by the  
organizations conducting approved wrecker operator certification  
courses. The department is not responsible for issuing  
certification cards or for the costs associated with the  
issuance of certification cards.

508.10 Wrecker operators; certification required;  
inspection of employment records.--Effective January 1, 2006:

(1) A person may not perform wrecker services in this  
state unless he or she is an employee or ultimate equitable  
owner of a wrecker company that is registered with the  
department under this chapter and those wrecker services are  
performed on behalf of the wrecker company.

(2)(a) A person may not perform wrecker services or  
specialized wrecker services for a wrecker company for more than  
6 months after first being employed by, or becoming an ultimate  
equitable owner of, the wrecker company without being certified  
as a wrecker operator under this chapter.

(b) A wrecker operator certified under this chapter may  
not perform a specialized wrecker service for a wrecker company  
unless the wrecker operator's certification includes an  
endorsement for that specialized wrecker service.

(3)(a) Notwithstanding subsections (1) and (2), a person  
may perform wrecker services or specialized wrecker services in  
this state if he or she is an employee or ultimate equitable

HB 341

2005  
CS

owner of a motor vehicle repair shop registered with the  
department under s. 559.904 and those wrecker services or  
specialized wrecker services are performed on behalf of the  
motor vehicle repair shop.

(b) Notwithstanding subsections (1) and (2), a person may  
perform wrecker services or specialized wrecker services in this  
state if those wrecker services or specialized wrecker services  
are performed on behalf of a religious organization that holds a  
current exemption from federal taxation, or that is not required  
to apply for recognition of its exemption, under s. 501 of the  
Internal Revenue Code.

(4) The department may, at any time during business hours,  
enter any business location of a wrecker company and examine the  
company's books or records. If the department has reason to  
believe that a violation of this chapter has occurred or is  
occurring, the department may subpoena any necessary books or  
records.

508.11 Renewal of certification; continuing education  
requirements.--

(1) The department, in consultation with the council,  
shall establish a continuing education program for the  
recertification of wrecker operators by December 31, 2007. In  
order to renew a wrecker operator's certification card, an  
operator must complete a continuing education course. The  
council must prescribe the minimum curricula and proper  
examination for each continuing education course, each of which  
must be at least 8 hours in length. The council shall approve  
each organization, and the continuing education course it



HB 341

2005  
CS

proposes to offer, before the course is approved for  
recertifying wrecker operators.

(2) Each organization conducting an approved wrecker  
operator continuing education course must issue, on forms  
prescribed by the department, a certificate to each wrecker  
operator who completes the approved course or who passes an  
approved recertification examination.

508.12 Prohibited acts.--It is a violation of this chapter  
for a person to:

(1) Charge rates that exceed the maximum rates imposed by  
the ordinances of the respective county or municipality under  
ss. 125.0103(1)(c) and 166.043(1)(c).

(2) Violate s. 321.051, relating to the Florida Highway  
Patrol wrecker allocation system.

(3) Violate s. 323.002, relating to county and municipal  
wrecker allocation systems.

(4) Violate s. 713.78, relating to liens for recovering,  
towing, or storing vehicles and vessels.

(5) Violate s. 715.07, relating to towing or removing  
vehicles and vessels parked on real property without permission.

(6) Refuse to allow a law enforcement officer to inspect a  
towing and storage facility, as required in s. 812.055.

(7) Allow a person who is not certified as a wrecker  
operator under this chapter to perform wrecker services or  
specialized wrecker services for the wrecker company for more  
than 6 months after first being employed by, or becoming an  
ultimate equitable owner of, the wrecker company.

HB 341

2005  
CS

1130       (8) Allow a wrecker operator certified under this chapter  
1131 to perform a specialized wrecker service for the wrecker company  
1132 if the wrecker operator's certification does not include an  
1133 endorsement for that specialized wrecker service.

1134       (9) Perform an act otherwise prohibited by this chapter or  
1135 fail to perform an act otherwise required by this chapter.

1136       508.13 Administrative penalties; inspection of records.--

1137       (1) The department may order one or more of the following  
1138 if the department finds that a person has violated this chapter  
1139 or the rules or orders issued under this chapter:

1140       (a) Issue a notice of noncompliance under s. 120.695.

1141       (b) Impose an administrative fine not to exceed \$5,000 for  
1142 each act or omission.

1143       (c) Direct the person to cease and desist specified  
1144 activities.

1145       (d) Refuse to register the wrecker company or suspend or  
1146 revoke the wrecker company's registration.

1147       (e) Place the wrecker company on probation for a period of  
1148 time, subject to the conditions specified by the department.

1149       (2) Chapter 120 shall govern an administrative proceeding  
1150 resulting from an order imposing a penalty specified in  
1151 subsection (1).

1152       508.14 Civil penalties.--The department may bring a civil  
1153 action in a court of competent jurisdiction to recover any  
1154 penalties or damages allowed in this chapter and for injunctive  
1155 relief to enforce compliance with this chapter. The department  
1156 may seek a civil penalty of up to \$5,000 for each violation of  
1157 this chapter and may seek restitution for and on behalf of any

HB 341

2005  
CS

owner of a vehicle, vessel, or mobile home who is aggrieved or injured by a violation of this chapter.

508.15 Criminal penalties.--Effective July 1, 2006:

(1) A person who violates s. 508.04(1) by operating a wrecker company in this state without being registered with the department under this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who violates s. 508.10(1) by performing wrecker services in this state without being an employee or ultimate equitable owner of a wrecker company that is registered with the department under this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

508.16 Fees.--The department shall adopt by rule a fee schedule, not to exceed the following amounts:

(1) Wrecker company registration fee: \$495.

(2) Wrecker company registration renewal fee: \$495.

508.17 General Inspection Trust Fund; payments.--All fees, penalties, or other funds collected by the department under this chapter must be deposited in the General Inspection Trust Fund and may only be used for the purpose of administering this chapter.

508.18 Recovery agents; exemption.--This chapter does not apply to a person licensed under chapter 493 performing repossession services.

508.19 County and municipal ordinances.--A county or municipality may enact ordinances governing the business of

HB 341

2005  
CS

1186 transporting vehicles or vessels by wrecker which are more  
1187 restrictive than this chapter. This section does not limit the  
1188 authority of a political subdivision to impose regulatory fees  
1189 or charges or to levy occupational license taxes under chapter  
1190 205. The department may enter into a cooperative agreement with  
1191 any county or municipality that provides for the referral,  
1192 investigation, and prosecution of consumer complaints alleging  
1193 violations of this act. The department is authorized to delegate  
1194 enforcement of this act to any county or municipality entering  
1195 into a cooperative agreement.

1196 508.20 Records.--

1197 (1) Each wrecker company shall maintain records of its  
1198 wrecker services for at least 12 months. These records shall be  
1199 maintained at the wrecker company's principal place of business.

1200 (2) Each wrecker company shall maintain records on each of  
1201 its wrecker operators sufficient to demonstrate that the  
1202 operator has successfully completed an approved wrecker operator  
1203 certification course or an approved wrecker operator continuing  
1204 education course and is certified to perform wrecker services.  
1205 These records shall be maintained at the wrecker company's  
1206 principal place of business for as long as the operator is  
1207 employed by the wrecker company and for at least 6 months  
1208 thereafter.

1209 (3) Each organization approved to conduct a wrecker  
1210 operator certification course or approved to offer a wrecker  
1211 operator continuing education course shall maintain records on  
1212 each person who successfully completes one of the courses. The  
1213 records shall be maintained at the organization's principal

HB 341

2005  
CS

place of business for at least 5 years. The department may, at any time during normal business hours, enter the organization's principal place of business to examine the records.

Section 17. Subsection (13) of section 713.78, Florida Statutes, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.--

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under paragraph (2)(c) or paragraph (2)(d) for recovery, towing, or storage of an abandoned vehicle, vessel, or mobile home upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11), the department shall place the name of the registered owner of that vehicle, vessel, or mobile home on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle, vessel, or mobile home is owned jointly by more than one person, the name of each registered owner shall be placed on the list. The notice of wrecker operator's lien shall be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the wrecker operator.

2. The name of the registered owner of the vehicle, vessel, or mobile home and the address to which the wrecker operator provided notice of the lien to the registered owner under subsection (4).

HB 341

2005  
CS

1242           3. A general description of the vehicle, vessel, or mobile  
1243 home, including its color, make, model, body style, and year.

1244           4. The vehicle identification number (VIN); registration  
1245 license plate number, state, and year; validation decal number,  
1246 state, and year; mobile home sticker number, state, and year;  
1247 vessel registration number; hull identification number; or other  
1248 identification number, as applicable.

1249           5. The name of the person or the corresponding law  
1250 enforcement agency that requested that the vehicle, vessel, or  
1251 mobile home be recovered, towed, or stored.

1252           6. The amount of the wrecker operator's lien, not to  
1253 exceed the amount allowed by paragraph (b).

1254           (b) For purposes of this subsection only, the amount of  
1255 the wrecker operator's lien for which the department will  
1256 prevent issuance of a license plate or revalidation sticker may  
1257 not exceed the amount of the charges for recovery, towing, and  
1258 storage of the vehicle, vessel, or mobile home for 7 days. These  
1259 charges may not exceed the maximum rates imposed by the  
1260 ordinances of the respective county or municipality under ss.  
1261 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit  
1262 the amount of a wrecker operator's lien claimed under subsection  
1263 (2) or prevent a wrecker operator from seeking civil remedies  
1264 for enforcement of the entire amount of the lien, but limits  
1265 only that portion of the lien for which the department will  
1266 prevent issuance of a license plate or revalidation sticker.

1267           (c)1. The registered owner of a vehicle, vessel, or mobile  
1268 home may dispute a wrecker operator's lien, by notifying the

HB 341

2005  
CS

department of the dispute in writing on forms provided by the department, if at least one of the following applies:

a. The registered owner presents a notarized bill of sale proving that the vehicle, vessel, or mobile home was sold in a private or casual sale before the vehicle, vessel, or mobile home was recovered, towed, or stored.

b. The registered owner presents proof that the Florida certificate of title of the vehicle, vessel, or mobile home was sold to a licensed dealer as defined in s. 319.001 before the vehicle, vessel, or mobile home was recovered, towed, or stored.

c. The records of the department were marked to indicate that the vehicle, vessel, or mobile home was sold before the issuance of the certificate of destruction under subsection (11).

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. If the vehicle, vessel, or mobile home is owned jointly by more than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, the department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8) if the wrecker operator has provided

Page 47 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

1297 the department with a certified copy of the judgment of a court  
1298 which orders the registered owner to pay the wrecker operator's  
1299 lien claimed under this section. In such a case, the amount of  
1300 the wrecker operator's lien allowed by paragraph (b) may be  
1301 increased to include no more than \$500 of the reasonable costs  
1302 and attorney's fees incurred in obtaining the judgment. The  
1303 department's action under this subparagraph is ministerial in  
1304 nature, shall not be considered final agency action, and may be  
1305 appealed ~~is appealable~~ only to the county court for the county  
1306 in which the vehicle, vessel, or mobile home was ordered  
1307 removed.

1308 2. A person against whom a wrecker operator's lien has  
1309 been imposed may alternatively obtain a discharge of the lien by  
1310 filing a complaint, challenging the validity of the lien or the  
1311 amount thereof, in the county court of the county in which the  
1312 vehicle, vessel, or mobile home was ordered removed. Upon filing  
1313 of the complaint, the person may have her or his name removed  
1314 from the list of those persons who may not be issued a license  
1315 plate or revalidation sticker for any motor vehicle under s.  
1316 320.03(8), thereby allowing issuance of a license plate or  
1317 revalidation sticker, upon posting with the court a cash or  
1318 surety bond or other adequate security equal to the amount of  
1319 the wrecker operator's lien to ensure the payment of such lien  
1320 in the event she or he does not prevail. Upon the posting of the  
1321 bond and the payment of the applicable fee set forth in s.  
1322 28.24, the clerk of the court shall issue a certificate  
1323 notifying the department of the posting of the bond and  
1324 directing the department to release the wrecker operator's lien.

Page 48 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1



HB 341

2005  
CS

1325 Upon determining the respective rights of the parties, the court  
1326 may award damages and costs in favor of the prevailing party.

1327 3. If a person against whom a wrecker operator's lien has  
1328 been imposed does not object to the lien, but cannot discharge  
1329 the lien by payment because the wrecker operator has moved or  
1330 gone out of business, the person may have her or his name  
1331 removed from the list of those persons who may not be issued a  
1332 license plate or revalidation sticker for any motor vehicle  
1333 under s. 320.03(8), thereby allowing issuance of a license plate  
1334 or revalidation sticker, upon posting with the clerk of court in  
1335 the county in which the vehicle, vessel, or mobile home was  
1336 ordered removed, a cash or surety bond or other adequate  
1337 security equal to the amount of the wrecker operator's lien.

1338 Upon the posting of the bond and the payment of the application  
1339 fee set forth in s. 28.24, the clerk of the court shall issue a  
1340 certificate notifying the department of the posting of the bond  
1341 and directing the department to release the wrecker operator's  
1342 lien. The department shall mail to the wrecker operator, at the  
1343 address upon the lien form, notice that the wrecker operator  
1344 must claim the security within 60 days, or the security will be  
1345 released back to the person who posted it. At the conclusion of  
1346 the 60 days, the department shall direct the clerk as to which  
1347 party is entitled to payment of the security, less applicable  
1348 clerk's fees.

1349 4. A wrecker operator's lien expires 5 years after filing.

1350 (d) Upon discharge of the amount of the wrecker operator's  
1351 lien allowed by paragraph (b), the wrecker operator must issue a  
1352 certificate of discharged wrecker operator's lien on forms

HB 341

2005  
CS

provided by the department to each registered owner of the vehicle, vessel, or mobile home attesting that the amount of the wrecker operator's lien allowed by paragraph (b) has been discharged. Upon presentation of the certificate of discharged wrecker operator's lien by the registered owner, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. Issuance of a certificate of discharged wrecker operator's lien under this paragraph does not discharge the entire amount of the wrecker operator's lien claimed under subsection (2), but only certifies to the department that the amount of the wrecker operator's lien allowed by paragraph (b), for which the department will prevent issuance of a license plate or revalidation sticker, has been discharged.

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of \$2, which must ~~shall~~ be deposited into the General Revenue Fund ~~established under s. 860.158~~. A service charge of \$2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

(f) This subsection applies only to the annual renewal in the registered owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of

HB 341

2005  
CS

registrations which is inclusive of the annual renewals. This subsection does not apply to any vehicle registered in the name of a lessor. This subsection does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

(g) The Department of Highway Safety and Motor Vehicles may adopt rules under ~~pursuant to~~ ss. 120.536(1) and 120.54 to implement this subsection.

Section 18. Effective January 1, 2006, section 713.78, Florida Statutes, as amended by this act, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.--

(1) As used in ~~For the purposes of~~ this section, the term:

(a) "Business day" means a day other than a Saturday, Sunday, or federal or state legal holiday.

(b) "Property owner" has the same meaning ascribed in s. 715.07.

(c)~~(a)~~ "Vehicle" has the same meaning ascribed in s. 508.01 ~~means any mobile item, whether motorized or not, which is mounted on wheels.~~

(d)~~(b)~~ "Vessel" has the same meaning ascribed in s. 508.01 ~~means every description of watercraft, barge, and air boat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02(8).~~

(e)~~(c)~~ "Wrecker" has the same meaning ascribed in s. 320.01 ~~means any truck or other vehicle which is used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways of this state and which is equipped for~~

HB 341

2005  
CS

that ~~purpose with a boom, winch, car carrier, or other similar~~  
equipment.

(f) "Wrecker company" has the same meaning ascribed in s.  
508.01.

(g) "Wrecker operator" has the same meaning ascribed in s.  
508.01.

(2) Whenever a wrecker company registered under chapter  
508 ~~person regularly engaged in the business of transporting~~  
~~vehicles or vessels by wrecker, tow truck, or car carrier~~  
recovers, removes, or stores a vehicle or, ~~vessel, or mobile~~  
~~home~~ upon instructions from:

(a) The owner of the vehicle or vessel ~~thereof; or~~

(b) The property owner ~~or lessor, or a person authorized~~  
~~by the owner or lessor~~, of real property on which the ~~such~~  
vehicle is ~~wrongfully~~ parked without permission, and the ~~such~~  
removal is done in compliance with s. 715.07; or

(c) A ~~Any~~ law enforcement agency, ~~or~~

~~(d) A mobile home park owner as defined in s. 723.003 who~~  
~~has a current writ of possession for a mobile home lot pursuant~~  
~~to s. 723.061,~~

the wrecker company has ~~she or he shall have~~ a lien on the ~~such~~  
vehicle or vessel for a reasonable towing fee and for a  
reasonable storage fee; except that a ~~no~~ storage fee may not  
~~shall~~ be charged if a ~~such~~ vehicle or vessel is stored ~~for~~ less  
than 6 hours.

(3) This section does not authorize any person to claim a  
lien on a vehicle for fees or charges connected with the

HB 341

2005  
CS

1437 immobilization of a ~~such~~ vehicle using a vehicle boot or other  
1438 similar device under ~~pursuant to~~ s. 715.07.

1439 (4)(a) Any wrecker company ~~that person regularly engaged~~  
1440 ~~in the business of recovering, towing, or storing vehicles or~~  
1441 ~~vessels who~~ comes into possession of a vehicle or vessel under  
1442 ~~pursuant to~~ subsection (2), and who claims a lien for recovery,  
1443 towing, or storage services, must ~~shall~~ give notice to the  
1444 registered owner, to the insurance company insuring the vehicle  
1445 notwithstanding ~~the provisions of~~ s. 627.736, and to all persons  
1446 claiming a lien on the vehicle or vessel ~~thereon~~, as disclosed  
1447 by the records in the Department of Highway Safety and Motor  
1448 Vehicles or of a corresponding agency in any other state.

1449 (b) Whenever a ~~any~~ law enforcement agency authorizes the  
1450 removal of a vehicle, or whenever a wrecker company ~~any towing~~  
1451 ~~service, garage, repair shop, or automotive service, storage, or~~  
1452 ~~parking place~~ notifies the law enforcement agency of possession  
1453 of a vehicle under ~~pursuant to~~ s. 715.07(2)(a)2., the applicable  
1454 law enforcement agency shall contact the Department of Highway  
1455 Safety and Motor Vehicles, or the appropriate agency of the  
1456 state of registration, if known, within 24 hours through the  
1457 medium of electronic communications, giving the full description  
1458 of the vehicle. Upon receipt of the full description of the  
1459 vehicle, the department shall search its files to determine the  
1460 owner's name, the insurance company insuring the vehicle, and  
1461 whether any person has filed a lien upon the vehicle as provided  
1462 in s. 319.27(2) and (3) and notify the applicable law  
1463 enforcement agency within 72 hours. The wrecker company ~~person~~  
1464 ~~in charge of the towing service, garage, repair shop, or~~

Page 53 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

1465 ~~automotive service, storage, or parking place~~ shall obtain this  
1466 ~~such~~ information from the applicable law enforcement agency  
1467 within 5 days after ~~from~~ the date of storage and must ~~shall~~ give  
1468 notice under ~~pursuant to~~ paragraph (a). The department may  
1469 release the insurance company information to the requestor  
1470 notwithstanding ~~the provisions of~~ s. 627.736.

1471 (c) Notice by certified mail, return receipt requested,  
1472 must ~~shall~~ be sent within 7 business days after the date of  
1473 storage of the vehicle or vessel to the registered owner, the  
1474 insurance company insuring the vehicle notwithstanding ~~the~~  
1475 ~~provisions of~~ s. 627.736, and all persons of record claiming a  
1476 lien against the vehicle or vessel. The notice must ~~it shall~~  
1477 state the fact of possession of the vehicle or vessel, that a  
1478 lien as provided in subsection (2) is claimed, that charges have  
1479 accrued and the amount of the charges ~~thereof~~, that the lien is  
1480 subject to enforcement under ~~pursuant to~~ law, ~~and~~ that the owner  
1481 or lienholder, if any, has the right to a hearing as set forth  
1482 in subsection (5), and that any vehicle or vessel which remains  
1483 unclaimed, or for which the charges for recovery, towing, or  
1484 storage services remain unpaid, may be sold free of all prior  
1485 liens after 35 days if the vehicle or vessel is more than 3  
1486 years of age or after 50 days if the vehicle or vessel is 3  
1487 years of age or less.

1488 (d) If the wrecker company is unable ~~attempts to~~ identify  
1489 the name of ~~locate~~ the owner or lienholder ~~prove unsuccessful~~,  
1490 the wrecker company must ~~towing-storage operator shall~~, after 7  
1491 business working days following, ~~excluding Saturday and Sunday~~,  
1492 ~~of~~ the initial tow or storage, notify the public agency of

HB 341

2005  
CS

jurisdiction in writing by certified mail or acknowledged hand  
delivery that the wrecker ~~towing-storage~~ company has been unable  
to identify the name of ~~locate~~ the owner or lienholder and a  
physical search of the vehicle or vessel has disclosed no  
ownership information and a good faith effort has been made. For  
purposes of this paragraph and subsection (9), the term "good  
faith effort" means that the following checks have been  
performed by the wrecker company to establish prior state of  
registration and for title:

1. Check of vehicle or vessel for any type of tag, tag  
record, temporary tag, or regular tag.

2. Check of law enforcement report for tag number or other  
information identifying the vehicle or vessel, if the vehicle or  
vessel was towed at the request of a law enforcement officer.

3. Check of trip sheet or tow ticket of the wrecker ~~tow~~  
~~truck~~ operator to see if a tag was on vehicle at beginning of  
tow, if private tow.

4. If there is no address of the owner on the impound  
report, check of law enforcement report to see if an out-of-  
state address is indicated from driver license information.

5. Check of vehicle or vessel for inspection sticker or  
other stickers and decals that may indicate a state of possible  
registration.

6. Check of the interior of the vehicle or vessel for any  
papers that may be in the glove box, trunk, or other areas for a  
state of registration.

7. Check of vehicle for vehicle identification number.

8. Check of vessel for vessel registration number.

Page 55 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

1521           9. Check of vessel hull for a hull identification number  
1522 which should be carved, burned, stamped, embossed, or otherwise  
1523 permanently affixed to the outboard side of the transom or, if  
1524 there is no transom, to the outmost seaboard side at the end of  
1525 the hull that bears the rudder or other steering mechanism.

1526           (5)(a) The owner of a vehicle or vessel removed under  
1527 ~~pursuant to the provisions of~~ subsection (2), or any person  
1528 claiming a lien, other than the wrecker company towing-storage  
1529 ~~operator~~, within 10 days after the time she or he has knowledge  
1530 of the location of the vehicle or vessel, may file a complaint  
1531 in the county court of the county in which the vehicle or vessel  
1532 is stored or in which the owner resides to determine if her or  
1533 his property was wrongfully taken or withheld from her or him.

1534           (b) Upon filing of a complaint, an owner or lienholder may  
1535 have her or his vehicle or vessel released upon posting with the  
1536 court a cash or surety bond or other adequate security equal to  
1537 the amount of the charges for towing or storage and lot rental  
1538 amount to ensure the payment of the ~~such~~ charges in the event  
1539 she or he does not prevail. Upon the posting of the bond and the  
1540 payment of the applicable fee set forth in s. 28.24, the clerk  
1541 of the court shall issue a certificate notifying the lienor of  
1542 the posting of the bond and directing the lienor to release the  
1543 vehicle or vessel. At the time of the ~~such~~ release, after  
1544 reasonable inspection, she or he shall give a receipt to the  
1545 wrecker towing-storage company reciting any claims she or he has  
1546 for loss or damage to the vehicle or vessel or to the contents  
1547 of the vehicle or vessel thereof.



HB 341

2005  
CS

(c) Upon determining the respective rights of the parties, the court shall ~~may~~ award damages, and costs, and reasonable attorney's fees to in favor of the prevailing party. ~~In any event,~~ The final order must require ~~shall provide for~~ immediate payment in full of the recovery, towing, and storage fees by the vehicle or vessel owner or lienholder; by or the law enforcement agency ordering the tow; or by the property owner, lessee, or agent thereof of the real property from which the vehicle or vessel was towed or removed under s. 715.07.

(6) Any vehicle or vessel that ~~which~~ is stored under ~~pursuant to~~ subsection (2) and that ~~which~~ remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid ~~or for which a lot rental amount is due and owing to the mobile home park owner, as evidenced by a judgment for unpaid rent, and any contents not released under pursuant to~~ subsection (10), may be sold by the wrecker company ~~owner or operator of the storage space for the~~ such towing or storage charge or unpaid lot rental amount after 35 days after ~~from the time the vehicle or vessel is stored in the wrecker company's storage facility therein~~ if the vehicle or vessel is more than 3 years of age or after 50 days after ~~following the time the vehicle or vessel is stored in the wrecker company's storage facility therein~~ if the vehicle or vessel is 3 years of age or less. The sale must ~~shall~~ be at public auction for cash. If the date of the sale is ~~was~~ not included in the notice required in subsection (4), notice of the sale must ~~shall~~ be given to the person in whose name the vehicle or, vessel, ~~or mobile home~~ is registered, ~~to the mobile home park owner,~~ and to all persons

HB 341

2005  
CS

1576 claiming a lien on the vehicle or vessel as shown on the records  
1577 of the Department of Highway Safety and Motor Vehicles or of the  
1578 corresponding agency in any other state. Notice must ~~shall~~ be  
1579 sent by certified mail, return receipt requested, to the owner  
1580 of the vehicle or vessel and the person having the recorded lien  
1581 on the vehicle or vessel at the address shown on the records of  
1582 the registering agency and must ~~shall~~ be mailed at least ~~not~~  
1583 ~~less than~~ 15 days before the date of the sale. After diligent  
1584 search and inquiry, if the name and address of the registered  
1585 owner or the owner of the recorded lien cannot be ascertained,  
1586 the requirements of notice by mail may be dispensed with. In  
1587 addition to the notice by mail, public notice of the time and  
1588 place of sale must ~~shall~~ be made by publishing a notice of the  
1589 sale thereof one time, at least 10 days before ~~prior to~~ the date  
1590 of the sale, in a newspaper of general circulation in the county  
1591 in which the sale is to be held. The proceeds of the sale, after  
1592 payment of reasonable towing and storage charges and, costs of  
1593 the sale, ~~and the unpaid lot rental amount~~, in that order of  
1594 priority, must ~~shall~~ be deposited with the clerk of the circuit  
1595 court for the county if the owner is absent, and the clerk shall  
1596 hold the such proceeds subject to the claim of the person  
1597 legally entitled to those proceeds ~~thereto~~. The clerk is ~~shall~~  
1598 ~~be~~ entitled to receive 5 percent of the such proceeds for the  
1599 care and disbursement of the proceeds ~~thereof~~. The certificate  
1600 of title issued under this section must ~~law shall~~ be discharged  
1601 of all liens unless otherwise provided by court order.

1602 (7)(a) A wrecker company, its wrecker operators, and other  
1603 employees or agents of the wrecker company ~~operator~~ recovering,

HB 341

2005  
CS

1604 towing, or storing vehicles or vessels are ~~is~~ not liable for  
1605 damages connected with those ~~such~~ services, theft of the ~~such~~  
1606 vehicles or vessels, or theft of personal property contained in  
1607 the ~~such~~ vehicles or vessels, if those ~~provided that such~~  
1608 services are ~~have been~~ performed with reasonable care and if  
1609 ~~provided, further, that,~~ in the case of removal of a vehicle or  
1610 vessel upon the request of a person purporting, and reasonably  
1611 appearing, to be the property owner ~~or lessee, or a person~~  
1612 ~~authorized by the owner or lessee,~~ of the real property from  
1613 which the ~~such~~ vehicle or vessel is removed, the ~~such~~ removal  
1614 has been done in compliance with s. 715.07. Further, a wrecker  
1615 company, its wrecker operators, and other employees or agents of  
1616 the wrecker company ~~operator is~~ not liable for damage  
1617 connected with those ~~such~~ services when complying with the  
1618 lawful directions of a law enforcement officer to remove a  
1619 vehicle stopped, standing, or parked upon a street or highway in  
1620 ~~such~~ a position that obstructs ~~as to obstruct~~ the normal  
1621 movement of traffic or that creates ~~in such a condition as to~~  
1622 ~~create~~ a hazard to other traffic upon the street or highway.

1623 (b) Employees or authorized agents of an authorized or  
1624 unauthorized wrecker company, as defined in s. 321.051 or s.  
1625 323.002, may remove a vehicle or vehicle cargo from a public  
1626 road without consent of the owner or operator of the vehicle or  
1627 vehicle cargo upon request of a law enforcement officer as  
1628 defined in s. 112.531, a sheriff or deputy sheriff as defined in  
1629 s. 30.072, or a firefighter as defined in s. 112.81. The  
1630 employee or authorized agent of the wrecker company, its wrecker  
1631 operators, and other employees or agents of the wrecker company,

Page 59 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

the law enforcement officer, sheriff, or deputy sheriff, and the firefighters and emergency medical services providers are not liable for any property damages or claims of damage for the removal if the vehicle or vehicle cargo is removed because it presents an imminent public safety hazard.

(c)~~(b)~~ For the purposes of this subsection, a wrecker company, its wrecker operators, and other employees or agents of the wrecker company are ~~operator is~~ presumed to use reasonable care to prevent the theft of a vehicle or vessel or of any personal property contained in the ~~such~~ vehicle stored in the wrecker company's ~~operator's~~ storage facility if all of the following apply:

1. The wrecker company ~~operator~~ surrounds the storage facility with a chain-link or solid-wall type fence at least 6 feet in height;

2. The wrecker company illuminates ~~operator has illuminated~~ the storage facility with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime; and

3. The wrecker company ~~operator~~ uses one or more of the following security methods to discourage theft of vehicles or vessels or of any personal property contained in such vehicles or vessels stored in the wrecker company's ~~operator's~~ storage facility:

a. A night dispatcher or watchman remains on duty at the storage facility from sunset to sunrise;

b. A security dog remains at the storage facility from sunset to sunrise;

HB 341

2005  
CS

1660 c. Security cameras or other similar surveillance devices  
1661 monitor the storage facility; or

1662 d. A security guard service examines the storage facility  
1663 at least once each hour from sunset to sunrise.

1664 (d)~~(e)~~ Any law enforcement agency requesting that a motor  
1665 vehicle be removed from an accident scene, street, or highway  
1666 must conduct an inventory and prepare a written record of all  
1667 personal property found in the vehicle before the vehicle is  
1668 removed by a wrecker operator. However, if the owner or driver  
1669 of the motor vehicle is present and accompanies the vehicle, an  
1670 ~~ne~~ inventory by law enforcement is not required. A wrecker  
1671 company, its wrecker operators, and other employees or agents of  
1672 the wrecker company are ~~operator is~~ not liable for the loss of  
1673 personal property alleged to be contained in ~~such~~ a vehicle when  
1674 the ~~such~~ personal property was not identified on the inventory  
1675 record prepared by the law enforcement agency requesting the  
1676 removal of the vehicle.

1677 (8) A wrecker company and its wrecker operators, excluding  
1678 ~~person regularly engaged in the business of recovering, towing,~~  
1679 ~~or storing vehicles or vessels, except~~ a person licensed under  
1680 chapter 493 while engaged in "repossession" activities as  
1681 defined in s. 493.6101, may not operate a wrecker, ~~tow truck, or~~  
1682 ~~ear carrier~~ unless the name, address, and telephone number of  
1683 the wrecker company performing the wrecker services ~~service~~ is  
1684 clearly printed in contrasting colors on the driver and  
1685 passenger sides of the wrecker ~~its vehicle~~. The name must be in  
1686 at least 3-inch permanently affixed letters, and the address and

HB 341

2005  
CS

1687 telephone number must be in at least 1-inch permanently affixed  
1688 letters.

1689 (9) Failure to make good faith best efforts to comply with  
1690 the notice requirements of this section precludes ~~shall preclude~~  
1691 the imposition of any storage charges against the ~~such~~ vehicle  
1692 or vessel.

1693 (10) Each wrecker company that provides ~~Persons who~~  
1694 ~~provide services under pursuant to~~ this section must ~~shall~~  
1695 permit vehicle or vessel owners or their agents, which agency is  
1696 evidenced by a writing acknowledged by the owner before a notary  
1697 public or other person empowered by law to administer oaths, to  
1698 inspect the towed vehicle or vessel and must ~~shall~~ release to  
1699 the owner or agent all personal property not affixed to the  
1700 vehicle or vessel which was in the vehicle or vessel at the time  
1701 the vehicle or vessel came into the custody of the wrecker  
1702 company person ~~providing those such~~ services.

1703 (11)(a) A wrecker company that ~~Any person regularly~~  
1704 ~~engaged in the business of recovering, towing, or storing~~  
1705 ~~vehicles or vessels who~~ comes into possession of a vehicle or  
1706 vessel under pursuant to subsection (2) and that complies ~~who~~  
1707 ~~has complied with the provisions of~~ subsections (3) and (6),  
1708 when the ~~such~~ vehicle or vessel is to be sold for purposes of  
1709 being dismantled, destroyed, or changed in a such ~~such~~ manner that it  
1710 is not the motor vehicle or, ~~vessel, or mobile home~~ described in  
1711 the certificate of title, must ~~shall~~ apply to the county tax  
1712 collector for a certificate of destruction. A certificate of  
1713 destruction, which authorizes the dismantling or destruction of  
1714 the vehicle or vessel described on the certificate ~~therein~~, is

Page 62 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

1715 ~~shall be~~ reassignable no more than twice ~~a maximum of two times~~  
1716 before dismantling or destruction of the vehicle is ~~shall be~~  
1717 required, and the certificate must ~~shall~~ accompany the vehicle  
1718 or vessel for which it is issued, when the ~~such~~ vehicle or  
1719 vessel is sold for that purpose ~~such purposes~~, in lieu of a  
1720 certificate of title. The application for a certificate of  
1721 destruction must include an affidavit from the applicant that it  
1722 has complied with all applicable requirements of this section  
1723 and, if the vehicle or vessel is not registered in this state,  
1724 by a statement from a law enforcement officer that the vehicle  
1725 or vessel is not reported stolen, and must also ~~shall~~ be  
1726 accompanied by any other ~~such~~ documentation ~~as may be~~ required  
1727 by the department.

1728 (b) The Department of Highway Safety and Motor Vehicles  
1729 shall charge a fee of \$3 for each certificate of destruction. A  
1730 service charge of \$4.25 shall be collected and retained by the  
1731 tax collector who processes the application.

1732 (c) The Department of Highway Safety and Motor Vehicles  
1733 may adopt ~~such~~ rules to administer ~~as it deems necessary or~~  
1734 ~~proper for the administration of~~ this subsection.

1735 (12)(a) Any person who violates ~~any provision of~~  
1736 subsection (1), subsection (2), subsection (4), subsection (5),  
1737 subsection (6), or subsection (7) commits ~~is guilty of~~ a  
1738 misdemeanor of the first degree, punishable as provided in s.  
1739 775.082 or s. 775.083.

1740 (b) Any person who violates ~~the provisions of~~ subsections  
1741 (8) through (11) commits ~~is guilty of~~ a felony of the third

HB 341

2005  
CS

1742 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1743 775.084.

1744 (c) Any person who uses a false or fictitious name, gives  
1745 a false or fictitious address, or makes any false statement in  
1746 any application or affidavit required under ~~the provisions of~~  
1747 this section commits ~~is guilty of~~ a felony of the third degree,  
1748 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1749 (d) Employees of the Department of Highway Safety and  
1750 Motor Vehicles and law enforcement officers may ~~are authorized~~  
1751 ~~to~~ inspect the records of each wrecker company in this state ~~any~~  
1752 ~~person regularly engaged in the business of recovering, towing,~~  
1753 ~~or storing vehicles or vessels or transporting vehicles or~~  
1754 ~~vessels by wrecker, tow truck, or car carrier,~~ to ensure  
1755 compliance with the requirements of this section. Any person who  
1756 fails to maintain records, or fails to produce records when  
1757 required in a reasonable manner and at a reasonable time,  
1758 commits a misdemeanor of the first degree, punishable as  
1759 provided in s. 775.082 or s. 775.083.

1760 (13)(a) Upon receipt by the Department of Highway Safety  
1761 and Motor Vehicles of written notice from a wrecker company  
1762 ~~operator~~ who claims a wrecker company's ~~operator's~~ lien under  
1763 paragraph (2)(c) ~~or paragraph (2)(d)~~ for recovery, towing, or  
1764 storage of an abandoned vehicle or, ~~vessel, or mobile home~~ upon  
1765 instructions from any law enforcement agency, for which a  
1766 certificate of destruction has been issued under subsection  
1767 (11), the department shall place the name of the registered  
1768 owner of that vehicle or, ~~vessel, or mobile home~~ on the list of  
1769 those persons who may not be issued a license plate or

Page 64 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1



HB 341

2005  
CS

1770 revalidation sticker for any motor vehicle under s. 320.03(8).  
1771 If the vehicle or, vessel, ~~or mobile home~~ is owned jointly by  
1772 more than one person, the name of each registered owner shall be  
1773 placed on the list. The notice of wrecker company's ~~operator's~~  
1774 lien shall be submitted on forms provided by the department,  
1775 which must include:

1776 1. The name, address, and telephone number of the wrecker  
1777 company ~~operator~~.

1778 2. The name of the registered owner of the vehicle or  
1779 vessel, ~~or mobile home~~ and the address to which the wrecker  
1780 company ~~operator~~ provided notice of the lien to the registered  
1781 owner under subsection (4).

1782 3. A general description of the vehicle or, vessel, ~~or~~  
1783 ~~mobile home~~, including its color, make, model, body style, and  
1784 year.

1785 4. The vehicle identification number (VIN); registration  
1786 license plate number, state, and year; validation decal number,  
1787 state, and year; ~~mobile home sticker number, state, and year;~~  
1788 ~~vessel registration number;~~ hull identification number; or other  
1789 identification number, as applicable.

1790 5. The name of the person or the corresponding law  
1791 enforcement agency that requested that the vehicle or, vessel,  
1792 ~~or mobile home~~ be recovered, towed, or stored.

1793 6. The amount of the wrecker company's ~~operator's~~ lien,  
1794 not to exceed the amount allowed by paragraph (b).

1795 (b) For purposes of this subsection only, the amount of  
1796 the wrecker company's ~~operator's~~ lien for which the department  
1797 will prevent issuance of a license plate or revalidation sticker

HB 341

2005  
CS

may not exceed the amount of the charges for recovery, towing, and storage of the vehicle or, vessel, ~~or mobile home~~ for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a wrecker company's ~~operator's~~ lien claimed under subsection (2) or prevent a wrecker company ~~operator~~ from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a license plate or revalidation sticker.

(c)1. The registered owner of a vehicle, vessel, or mobile home may dispute a wrecker company's ~~operator's~~ lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

a. The registered owner presents a notarized bill of sale proving that the vehicle or, vessel, ~~or mobile home~~ was sold in a private or casual sale before the vehicle or, vessel, ~~or mobile home~~ was recovered, towed, or stored.

b. The registered owner presents proof that the Florida certificate of title of the vehicle or, vessel, ~~or mobile home~~ was sold to a licensed dealer as defined in s. 319.001 before the vehicle or, vessel, ~~or mobile home~~ was recovered, towed, or stored.

c. The records of the department were marked to indicate that the vehicle or, vessel, ~~or mobile home~~ was sold before the

HB 341

2005  
CS

issuance of the certificate of destruction under subsection  
(11).

If the registered owner's dispute of a wrecker company's  
~~operator's~~ lien complies with one of these criteria, the  
department shall immediately remove the registered owner's name  
from the list of those persons who may not be issued a license  
plate or revalidation sticker for any motor vehicle under s.  
320.03(8), thereby allowing issuance of a license plate or  
revalidation sticker. If the vehicle or, vessel, ~~or mobile home~~  
is owned jointly by more than one person, each registered owner  
must dispute the wrecker company's ~~operator's~~ lien in order to  
be removed from the list. However, the department shall deny any  
dispute and maintain the registered owner's name on the list of  
those persons who may not be issued a license plate or  
revalidation sticker for any motor vehicle under s. 320.03(8) if  
the wrecker company ~~operator~~ has provided the department with a  
certified copy of the judgment of a court which orders the  
registered owner to pay the wrecker company's ~~operator's~~ lien  
claimed under this section. In such a case, the amount of the  
wrecker company's ~~operator's~~ lien allowed by paragraph (b) may  
be increased to include no more than \$500 of the reasonable  
costs and attorney's fees incurred in obtaining the judgment.  
The department's action under this subparagraph is ministerial  
in nature, shall not be considered final agency action, and may  
be appealed only to the county court for the county in which the  
vehicle or, vessel, ~~or mobile home~~ was ordered removed.

HB 341

2005  
CS

1852           2. A person against whom a wrecker company's ~~operator's~~  
1853       lien has been imposed may alternatively obtain a discharge of  
1854       the lien by filing a complaint, challenging the validity of the  
1855       lien or the amount thereof, in the county court of the county in  
1856       which the vehicle or, ~~vessel, or mobile home~~ was ordered  
1857       removed. Upon filing of the complaint, the person may have her  
1858       or his name removed from the list of those persons who may not  
1859       be issued a license plate or revalidation sticker for any motor  
1860       vehicle under s. 320.03(8), thereby allowing issuance of a  
1861       license plate or revalidation sticker, upon posting with the  
1862       court a cash or surety bond or other adequate security equal to  
1863       the amount of the wrecker company's ~~operator's~~ lien to ensure  
1864       the payment of such lien in the event she or he does not  
1865       prevail. Upon the posting of the bond and the payment of the  
1866       applicable fee set forth in s. 28.24, the clerk of the court  
1867       shall issue a certificate notifying the department of the  
1868       posting of the bond and directing the department to release the  
1869       wrecker company's ~~operator's~~ lien. Upon determining the  
1870       respective rights of the parties, the court may award damages  
1871       and costs in favor of the prevailing party.

1872           3. If a person against whom a wrecker company's ~~operator's~~  
1873       lien has been imposed does not object to the lien, but cannot  
1874       discharge the lien by payment because the wrecker company  
1875       ~~operator~~ has moved or gone out of business, the person may have  
1876       her or his name removed from the list of those persons who may  
1877       not be issued a license plate or revalidation sticker for any  
1878       motor vehicle under s. 320.03(8), thereby allowing issuance of a  
1879       license plate or revalidation sticker, upon posting with the

Page 68 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

clerk of court in the county in which the vehicle ~~or~~, vessel, ~~or~~  
~~mobile home~~ was ordered removed, a cash or surety bond or other  
adequate security equal to the amount of the wrecker company's  
~~operator's~~ lien. Upon the posting of the bond and the payment of  
the application fee set forth in s. 28.24, the clerk of the  
court shall issue a certificate notifying the department of the  
posting of the bond and directing the department to release the  
wrecker company's ~~operator's~~ lien. The department shall mail to  
the wrecker company ~~operator~~, at the address upon the lien form,  
notice that the wrecker company ~~operator~~ must claim the security  
within 60 days, or the security will be released back to the  
person who posted it. At the conclusion of the 60 days, the  
department shall direct the clerk as to which party is entitled  
to payment of the security, less applicable clerk's fees.

4. A wrecker company's ~~operator's~~ lien expires 5 years  
after filing.

(d) Upon discharge of the amount of the wrecker company's  
~~operator's~~ lien allowed by paragraph (b), the wrecker company  
~~operator~~ must issue a certificate of discharged wrecker  
company's ~~operator's~~ lien on forms provided by the department to  
each registered owner of the vehicle, vessel, or mobile home  
attesting that the amount of the wrecker company's ~~operator's~~  
lien allowed by paragraph (b) has been discharged. Upon  
presentation of the certificate of discharged wrecker company's  
~~operator's~~ lien by the registered owner, the department shall  
immediately remove the registered owner's name from the list of  
those persons who may not be issued a license plate or  
revalidation sticker for any motor vehicle under s. 320.03(8),

HB 341

2005  
CS

1908 thereby allowing issuance of a license plate or revalidation  
1909 sticker. Issuance of a certificate of discharged wrecker  
1910 company's ~~operator's~~ lien under this paragraph does not  
1911 discharge the entire amount of the wrecker company's ~~operator's~~  
1912 lien claimed under subsection (2), but only certifies to the  
1913 department that the amount of the wrecker company's ~~operator's~~  
1914 lien allowed by paragraph (b), for which the department will  
1915 prevent issuance of a license plate or revalidation sticker, has  
1916 been discharged.

1917 (e) When a wrecker company ~~operator~~ files a notice of  
1918 wrecker company's ~~operator's~~ lien under this subsection, the  
1919 department shall charge the wrecker company ~~operator~~ a fee of  
1920 \$2, which must be deposited into the General Revenue Fund. A  
1921 service charge of \$2.50 shall be collected and retained by the  
1922 tax collector who processes a notice of wrecker company's  
1923 ~~operator's~~ lien.

1924 (f) This subsection applies only to the annual renewal in  
1925 the registered owner's birth month of a motor vehicle  
1926 registration and does not apply to the transfer of a  
1927 registration of a motor vehicle sold by a motor vehicle dealer  
1928 licensed under chapter 320, except for the transfer of  
1929 registrations which is inclusive of the annual renewals. This  
1930 subsection does not apply to any vehicle registered in the name  
1931 of a lessor. This subsection does not affect the issuance of the  
1932 title to a motor vehicle, notwithstanding s. 319.23(7)(b).

1933 (g) The Department of Highway Safety and Motor Vehicles  
1934 may adopt rules under ss. 120.536(1) and 120.54 to implement  
1935 this subsection.

HB 341

2005  
CS

(14) The amendments to this section made by this act do not affect the validity of liens established under this section before January 1, 2006.

Section 19. Effective January 1, 2006, section 713.785, Florida Statutes, is created to read:

713.785 Liens for recovering, towing, or storing mobile homes.--

(1) As used in this section, the term:

(a) "Mobile home transport company" means a person regularly engaged in the business of transporting mobile homes.

(b) "Store" means a mobile home transport company has legal possession of a mobile home either on the mobile home transport company's property or on any other property.

(c) "Unpaid lot rental amount" or "rent" means any unpaid financial obligations of the mobile home owner or tenant to the mobile home park owner defined as lot rental amount in s. 723.003 or rent in part II of chapter 83 and includes any amounts defined as storage charges in s. 723.084.

(2) If the mobile home transport company recovers, removes, or stores a mobile home upon instructions from:

(a) The owner of the mobile home;

(b) Any law enforcement agency; or

(c) A mobile home park owner as defined in s. 723.003 who has a current writ of possession for a mobile home lot under s. 723.062 or s. 83.62,

the mobile home transport company has a lien on the mobile home for a reasonable towing fee and for a reasonable storage fee.

HB 341

2005  
CS

1964        (3)(a) A mobile home transport company that comes into  
1965 possession of a mobile home under subsection (2) and that claims  
1966 a lien for recovery, towing, or storage services must give  
1967 notice to the registered owner and to all persons claiming a  
1968 lien on the mobile home, as disclosed by the records in the  
1969 Department of Highway Safety and Motor Vehicles or of a  
1970 corresponding agency in any other state.

1971        (b) Notice by certified mail, return receipt requested,  
1972 shall be sent within 7 business days after the date of storage  
1973 of the mobile home to the registered owner at the owner's last  
1974 known address and all persons of record claiming a lien against  
1975 the mobile home. The notice shall state the fact of possession  
1976 of the mobile home, that a lien as provided in subsection (2) is  
1977 claimed, that charges have accrued and the amount thereof, that  
1978 the lien is subject to enforcement under law and that the owner  
1979 or lienholder, if any, has the right to a hearing as set forth  
1980 in subsection (4), and that any mobile home which remains  
1981 unclaimed, or for which charges remain unpaid, may be sold free  
1982 of all prior liens after 35 days.

1983        (4)(a) The owner of a mobile home stored under subsection  
1984 (2), or any person claiming a lien of record, other than the  
1985 mobile home transport company, within 10 days after the time she  
1986 or he has knowledge of the location of the mobile home, may file  
1987 a complaint in the court of the county in which the mobile home  
1988 is stored to determine if her or his property was wrongfully  
1989 taken or withheld from her or him.

1990        (b) Upon filing of a complaint, an owner or lienholder may  
1991 have the mobile home released upon posting with the court a cash



HB 341

2005  
CS

1992   or surety bond or other adequate security equal to the amount of  
1993   the charges for towing or storage and lot rental amount due and  
1994   owing at that time to ensure the payment of the charges in the  
1995   event she or he does not prevail. Upon the posting of the bond  
1996   and the payment of the applicable fee set forth in s. 28.24, the  
1997   clerk of the court shall issue a certificate notifying the  
1998   mobile home transport company of the posting of the bond and  
1999   directing the mobile home transport company to release the  
2000   mobile home. At the time of the release, after reasonable  
2001   inspection, she or he shall give a receipt to the mobile home  
2002   transport company citing any claims she or he has for loss or  
2003   damage to the mobile home or the contents thereof.

2004   (c) Upon determining the respective rights of the parties,  
2005   the court may award damages and costs in favor of the prevailing  
2006   party. The final order shall provide for immediate payment in  
2007   full of any lien for recovery, towing, and storage fees and any  
2008   unpaid lot rental amount accruing until the time the home is  
2009   removed from the property by the mobile home owner or lienholder  
2010   or the owner, lessee, or agent thereof of the property from  
2011   which the mobile home was removed.

2012   (5) A mobile home that is stored under subsection (2) and  
2013   which remains unclaimed, or for which reasonable charges for  
2014   recovery, towing, or storing remain unpaid or for which a lot  
2015   rental amount is due and owing to the mobile home park owner as  
2016   evidenced by a judgment for unpaid rent and any contents of the  
2017   mobile home not released under subsection (9), may be sold by  
2018   the mobile home transport company for the towing or storage  
2019   charge and any unpaid lot rental amount 35 days after the mobile

HB 341

2005  
CS

2020 home is stored by a mobile home transport company. The sale  
2021 shall be at public auction for cash. If the date of the sale was  
2022 not included in the notice required by subsection (3), notice of  
2023 the sale must be given to the person in whose name the mobile  
2024 home is registered at her or his last known address, to the  
2025 mobile home park owner, and to all persons claiming a lien on  
2026 the mobile home as shown on the records of the Department of  
2027 Highway Safety and Motor Vehicles or of the corresponding agency  
2028 in any other state. Notice must be sent by certified mail,  
2029 return receipt requested, at least 15 days before the date of  
2030 the sale. After diligent search and inquiry, if the name and  
2031 address of the registered owner or the owner of the recorded  
2032 lien cannot be ascertained, the requirements of notice by mail  
2033 may be dispensed with. In addition to the notice by mail, public  
2034 notice of the time and place of sale must be made by publishing  
2035 a notice of the sale one time, at least 10 days before the date  
2036 of the sale, in a newspaper of general circulation in the county  
2037 in which the sale is to be held. The proceeds of the sale, after  
2038 payment of reasonable towing and storage charges, costs of the  
2039 sale, and the unpaid lot rental amount, as evidenced by the  
2040 judgment for unpaid lot rental amount and an affidavit executed  
2041 by the mobile home park owner or the owner's agent establishing  
2042 the amount of unpaid lot rental amount through the date of the  
2043 sale, in that order of priority, must be deposited with the  
2044 clerk of the circuit court for the county if the owner is  
2045 absent, and the clerk shall hold the proceeds subject to the  
2046 claim of the person legally entitled to those proceeds. The  
2047 clerk is entitled to receive 5 percent of the proceeds for the

Page 74 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

2048 care and disbursement of the proceeds. The certificate of title  
2049 issued under this section shall be discharged of all liens  
2050 unless otherwise provided by court order.

2051 (6) The mobile home transport company, the landlord or his  
2052 or her agent, or any subsequent purchaser for value are not  
2053 responsible to the tenant or any other party for loss,  
2054 destruction, or damage to the mobile home or other personal  
2055 property after coming into possession of the mobile home under  
2056 this section, provided the mobile home transport company, the  
2057 landlord, or their agents use reasonable care in storing the  
2058 mobile home. As used in this subsection, the term "reasonable  
2059 care" means securing the mobile home by changing door locks, or  
2060 any similar methods for securing the mobile home, in place in  
2061 the mobile home park or in a separate storage area.

2062 (7)(a) A mobile home transport company that comes into  
2063 possession of a mobile home under subsection (2) and that  
2064 complies with subsection (3), if the mobile home is to be sold  
2065 for purposes of being dismantled, destroyed, or changed so that  
2066 it is not the mobile home described in the certificate of title,  
2067 must apply to the county tax collector for a certificate of  
2068 destruction. A certificate of destruction, which authorizes the  
2069 dismantling or destruction of the mobile home described in the  
2070 certificate, is reassignable no more than twice before  
2071 dismantling or destruction of the mobile home and the  
2072 certificate must accompany the mobile home for which it is  
2073 issued when the mobile home is sold for that purpose, in lieu of  
2074 a certificate of title. The application for a certificate of  
2075 destruction must include an affidavit from the applicant that it

Page 75 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

2076 has complied with all applicable requirements of this section;  
2077 must, if the mobile home is not registered in this state,  
2078 include a statement from a law enforcement officer that the  
2079 mobile home is not reported stolen; and shall be accompanied by  
2080 any other documentation as may be required by the department.

2081 (b) The Department of Highway Safety and Motor Vehicles  
2082 shall charge a fee of \$3 for each certificate of destruction.  
2083 The tax collector who processes the application shall collect  
2084 and retain a service charge of \$4.25.

2085 (c) The Department of Highway Safety and Motor Vehicles  
2086 may adopt rules to administer this subsection.

2087 (d) Employees of the Department of Highway Safety and  
2088 Motor Vehicles and law enforcement officers may inspect the  
2089 records of each mobile home transport company in this state to  
2090 ensure compliance with this section.

2091 (8)(a) Upon receipt by the Department of Highway Safety  
2092 and Motor Vehicles of written notice from a mobile home  
2093 transport company that claims a lien under paragraph (2)(b) or  
2094 paragraph (2)(c) for recovery, towing, or storage of a mobile  
2095 home for which a certificate of destruction has been issued  
2096 under subsection (7), the department shall place the name of the  
2097 registered owner of that mobile home on the list of those  
2098 persons who may not be issued a revalidation sticker under s.  
2099 320.03. If the mobile home is owned jointly by more than one  
2100 person, the name of each registered owner must be placed on the  
2101 list. The notice of a mobile home transport company's lien must  
2102 be submitted on forms provided by the department, which must  
2103 include:

HB 341

2005  
CS

2104        1. The name, address, and telephone number of the mobile  
2105 home transport company.

2106        2. The name of the registered owner of the mobile home and  
2107 the address to which the mobile home transport company provided  
2108 notice of the lien to the registered owner under subsection (3).

2109        3. A general description of the mobile home, including its  
2110 color, make, model, body style, and year.

2111        4. The mobile home sticker number, state, and year or  
2112 other identification number, as applicable.

2113        5. The name of the person or the corresponding law  
2114 enforcement agency that requested that the mobile home be  
2115 recovered, towed, or stored.

2116        6. The amount of the lien, not to exceed the amount  
2117 allowed by paragraph (b).

2118        (b) For purposes of this subsection, the amount of the  
2119 mobile home transport company's lien for which the department  
2120 will prevent issuance of a revalidation sticker may not exceed  
2121 the amount of the charges for recovery, towing, and storage of  
2122 the mobile home for 7 days. These charges may not exceed the  
2123 maximum rates imposed by the ordinances of the respective county  
2124 or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This  
2125 paragraph does not limit the amount of a mobile home transport  
2126 company's lien claimed under subsection (2) or prevent a mobile  
2127 home transport company from seeking civil remedies for  
2128 enforcement of the entire amount of the lien, but limits only  
2129 that portion of the lien for which the department will prevent  
2130 issuance of a revalidation sticker.

HB 341

2005  
CS

2131 (c)1. The registered owner of the mobile home may dispute  
2132 the mobile home transport company's lien by notifying the  
2133 department of the dispute in writing on forms provided by the  
2134 department, if at least one of the following applies:

2135 a. The registered owner presents a notarized bill of sale  
2136 proving that the mobile home was sold in a private or casual  
2137 sale before the mobile home was recovered, towed, or stored.

2138 b. The registered owner presents proof that the Florida  
2139 certificate of title of the mobile home was sold to a licensed  
2140 dealer as defined in s. 319.001 before the mobile home was  
2141 recovered, towed, or stored.

2142 c. The records of the department were marked to indicate  
2143 that the mobile home was sold before the issuance of the  
2144 certificate of destruction under subsection (7).

2145  
2146 If the registered owner's dispute of a mobile home transport  
2147 company's lien complies with one of these criteria, the  
2148 department shall immediately remove the registered owner's name  
2149 from the list of those persons who may not be issued a  
2150 revalidation sticker under s. 320.03. If the mobile home is  
2151 owned jointly by more than one person, each registered owner  
2152 must dispute the mobile home transport company's lien in order  
2153 to be removed from the list. However, the department shall deny  
2154 any dispute and maintain the registered owner's name on the list  
2155 of those persons who may not be issued a revalidation sticker if  
2156 the mobile home transport company has provided the department  
2157 with a certified copy of the judgment of a court which orders  
2158 the registered owner to pay the mobile home transport company's

Page 78 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

2159 lien claimed under this section. In such a case, the amount of  
2160 the mobile home transport company's lien allowed by paragraph  
2161 (b) may be increased to include no more than \$500 of the  
2162 reasonable costs and attorney's fees incurred in obtaining the  
2163 judgment. The department's action under this subparagraph is  
2164 ministerial in nature, is not final agency action, and is  
2165 appealable only to the county court for the county in which the  
2166 mobile home was ordered removed.

2167 2. A person against whom a mobile home transport company's  
2168 lien has been imposed may alternatively obtain a discharge of  
2169 the lien by filing a complaint challenging the validity of the  
2170 lien or the amount thereof in the county court of the county in  
2171 which the mobile home was ordered removed. Upon filing of the  
2172 complaint, the person may have her or his name removed from the  
2173 list of those persons who may not be issued a revalidation  
2174 sticker for any mobile home under s. 320.03 upon posting with  
2175 the court a cash or surety bond or other adequate security equal  
2176 to the amount of the mobile home transport company's lien to  
2177 ensure the payment of the lien in the event she or he does not  
2178 prevail. Upon the posting of the bond and the payment of the  
2179 applicable fee set forth in s. 28.24, the clerk of the court  
2180 shall issue a certificate notifying the department of the  
2181 posting of the bond and directing the department to release the  
2182 mobile home transport company's lien. Upon determining the  
2183 respective rights of the parties, the court may award damages  
2184 and costs in favor of the prevailing party.

2185 3. If a person against whom a mobile home transport  
2186 company's lien has been imposed does not object to the lien, but

HB 341

2005  
CS

cannot discharge the lien by payment because the mobile home transport company has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be issued a revalidation sticker under s. 320.03 upon posting with the clerk of court in the county in which the mobile home was ordered removed a cash or surety bond or other adequate security equal to the amount of the mobile home transport company's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the mobile home transport company's lien. The department shall mail to the mobile home transport company, at the address upon the lien form, notice that the mobile home transport company must claim the security within 60 days or the security will be released to the person who posted it. At the conclusion of the 60 days, the department shall direct the clerk as to which party is entitled to payment of the security, less applicable fees of the clerk.

4. A mobile home transport company's lien expires 5 years after filing.

(d) Upon discharge of the amount of the mobile home transport company's lien allowed under paragraph (b), the mobile home transport company must issue a certificate of discharged lien on a form provided by the department to each registered owner of the mobile home attesting that the amount of the mobile home transport company's lien allowed under paragraph (b) has been discharged. Upon presentation of the certificate of



HB 341

2005  
CS

2215 discharged lien by the registered owner, the department shall  
2216 immediately remove the registered owner's name from the list of  
2217 those persons who may not be issued a revalidation sticker under  
2218 s. 320.03. Issuance of a certificate of discharged lien under  
2219 this paragraph does not discharge the entire amount of the  
2220 mobile home transport company's lien claimed under subsection  
2221 (2), but certifies to the department only that the amount of the  
2222 mobile home transport company's lien allowed by paragraph (b),  
2223 for which the department will prevent issuance of a revalidation  
2224 sticker, has been discharged.

2225 (e) When a mobile home transport company files a notice of  
2226 lien under this subsection, the department shall charge the  
2227 mobile home transport company a fee of \$2, which must be  
2228 deposited into the General Revenue Fund. The tax collector who  
2229 processes a notice of lien shall collect and retain a service  
2230 charge of \$2.50.

2231 (f) The Department of Highway Safety and Motor Vehicles  
2232 may adopt rules to administer this subsection.

2233 (9) Persons who provide services under this section shall  
2234 permit a mobile home owner or her or his agent, whose agency is  
2235 evidenced by a writing acknowledged by the owner before a notary  
2236 public or other person empowered by law to administer oaths, to  
2237 inspect the mobile home and shall release to the owner or agent  
2238 all personal property not affixed to the mobile home, provided  
2239 there exists no landlord's lien for rent under s. 713.691 or s.  
2240 713.77.

2241 (10) Any person who violates subsection (3), subsection  
2242 (5), subsection (6), subsection (7), or subsection (9) commits a

HB 341

2005  
CS

2243 misdemeanor of the first degree, punishable as provided in s.  
2244 775.082 or s. 775.083.

2245 Section 20. Paragraph (a) of subsection (1) of section  
2246 319.30, Florida Statutes, is amended to read:

2247 319.30 Definitions; dismantling, destruction, change of  
2248 identity of motor vehicle or mobile home; salvage.--

2249 (1) As used in this section, the term:

2250 (a) "Certificate of destruction" means the certificate  
2251 issued pursuant to s. 713.78(11) or s. 713.785(7)(a).

2252 Section 21. Effective January 1, 2006, section 715.07,  
2253 Florida Statutes, is amended to read:

2254 715.07 Vehicles and vessels parked on real ~~private~~  
2255 property without permission; towing.--

2256 (1) As used in this section, the term:

2257 (a) "Property owner" means an owner or lessee of real  
2258 property, or a person authorized by the owner or lessee, which  
2259 person may be the designated representative of the condominium  
2260 association if the real property is a condominium.

2261 (b) "Vehicle" has the same meaning ascribed in s. 508.01  
2262 ~~means any mobile item which normally uses wheels, whether~~  
2263 ~~motorized or not.~~

2264 (c) "Vessel" has the same meaning ascribed in s. 508.01.

2265 (d) "Wrecker company" has the same meaning ascribed in s.  
2266 508.01.

2267 (e) "Wrecker operator" has the same meaning ascribed in s.  
2268 508.01.

2269 (2) A property owner ~~The owner or lessee of real property,~~  
2270 ~~or any person authorized by the owner or lessee, which person~~

HB 341

2005  
CS

2271 ~~may be the designated representative of the condominium~~  
2272 ~~association if the real property is a condominium,~~ may cause a  
2273 ~~any~~ vehicle or vessel parked on her or his ~~such~~ property without  
2274 her or his permission to be removed by a wrecker company  
2275 registered under chapter 508 ~~person regularly engaged in the~~  
2276 ~~business of towing vehicles,~~ without liability for the costs of  
2277 removal, transportation, or storage or damages caused by the  
2278 ~~such~~ removal, transportation, or storage, under any of the  
2279 following circumstances:

2280 (a) The towing or removal of any vehicle or vessel from  
2281 real ~~private~~ property without the consent of the registered  
2282 owner or other legally authorized person in control of that  
2283 vehicle or vessel is subject to strict compliance with the  
2284 following conditions and restrictions:

2285 1.a. Any towed or removed vehicle or vessel must be stored  
2286 at a storage facility ~~site~~ within a 10-mile radius ~~10 miles~~ of  
2287 the point of removal in any county of 500,000 population or  
2288 more, and within a 15-mile radius ~~15 miles~~ of the point of  
2289 removal in any county of less than 500,000 population. The  
2290 wrecker company's storage facility ~~That site~~ must be open for  
2291 the purpose of redemption of vehicles and vessels on any day  
2292 that the wrecker company ~~person or firm~~ towing the ~~such~~ vehicle  
2293 or vessel is open for towing purposes, from 8 ~~8:00~~ a.m. to 6  
2294 ~~6:00~~ p.m., and, when closed, must ~~shall~~ have prominently posted  
2295 a sign indicating a telephone number where the operator of the  
2296 storage facility ~~site~~ can be reached at all times. Upon receipt  
2297 of a telephoned request to open the storage facility ~~site~~ to  
2298 redeem a vehicle or vessel, the operator shall return to the

Page 83 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

2299 storage facility site within 1 hour or she or he ~~is~~ will be in  
2300 violation of this section.

2301 b. If a wrecker company ~~no towing business providing such~~  
2302 ~~service~~ is not located within the area of towing limitations ~~set~~  
2303 ~~forth~~ in sub-subparagraph a., the following limitations apply:  
2304 any towed or removed vehicle or vessel must be stored at a  
2305 storage facility site within a 20-mile radius ~~20 miles~~ of the  
2306 point of removal in any county of 500,000 population or more,  
2307 and within a 30-mile radius ~~30 miles~~ of the point of removal in  
2308 any county of less than 500,000 population.

2309 2. The wrecker company ~~person or firm~~ towing or removing  
2310 the vehicle or vessel must ~~shall~~, within 30 minutes after ~~of~~  
2311 completion of that ~~such~~ towing or removal, notify the municipal  
2312 police department or, in an unincorporated area, the sheriff of  
2313 that ~~such~~ towing or removal; the location of the storage  
2314 facility; site, the time the vehicle or vessel was towed or  
2315 removed; and the make, model, color, and license plate number  
2316 of the vehicle or the make, model, color, and registration  
2317 number of the vessel. The wrecker company must also ~~and shall~~  
2318 obtain the name of the person at that department to whom this  
2319 ~~such~~ information is ~~was~~ reported and note that name on the trip  
2320 record.

2321 3. If the registered owner or other legally authorized  
2322 person in control of the vehicle or vessel arrives at the scene  
2323 before ~~prior to removal or towing of the vehicle or vessel is~~  
2324 towed or removed, the wrecker company must disconnect the  
2325 vehicle or vessel ~~shall be disconnected~~ from the wrecker towing  
2326 ~~or removal apparatus~~, and must allow that person ~~shall be~~

Page 84 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

2327 ~~allowed~~ to remove the vehicle or vessel without interference  
2328 upon the payment of a reasonable service fee of not more than  
2329 one-half of the posted rate for those services ~~such towing~~  
2330 ~~service~~ as provided in subparagraph 6., for which a receipt  
2331 shall be given, unless that person refuses to remove the vehicle  
2332 or vessel that ~~which~~ is otherwise unlawfully parked or located.

2333 4. A wrecker company, a wrecker operator, or another  
2334 employee or agent of a wrecker company may not give a The rebate  
2335 or pay ~~payment of~~ money or ~~any~~ other valuable consideration ~~from~~  
2336 ~~the individual or firm towing or removing vehicles to the~~  
2337 property owner ~~owners or operators~~ of the premises from which a  
2338 vehicle or vessel is ~~the vehicles are~~ towed or removed, for the  
2339 privilege of removing or towing the vehicle or vessel ~~those~~  
2340 ~~vehicles, is prohibited.~~ A property owner may not solicit a  
2341 wrecker company, a wrecker operator, or another employee or  
2342 agent of a wrecker company to give him or her a rebate or the  
2343 payment of money or other valuable consideration for the  
2344 privilege of removing or towing a vehicle from his or her  
2345 premises.

2346 5. Except for property appurtenant to and obviously a part  
2347 of a single-family residence, and except for instances when  
2348 notice is personally given to the owner or other legally  
2349 authorized person in control of the vehicle or vessel that the  
2350 area in which that vehicle or vessel is parked is reserved or  
2351 otherwise unavailable for unauthorized vehicles or vessels and  
2352 subject to being removed at the owner's or operator's expense,  
2353 any property owner ~~or lessee, or person authorized by the~~  
2354 ~~property owner or lessee,~~ before ~~prior to~~ towing or removing any

Page 85 of 91

HB 341

2005  
CS

2355 vehicle or vessel from real ~~private~~ property without the consent  
2356 of the owner or other legally authorized person in control of  
2357 that vehicle or vessel, must post a notice meeting the following  
2358 requirements:

2359 a. The notice must be prominently placed at each driveway  
2360 access or curb cut allowing vehicular access to the property,  
2361 within 5 feet from the public right-of-way line. If there are no  
2362 curbs or access barriers, the signs must be posted not less than  
2363 one sign for each 25 feet of lot frontage.

2364 b. The notice must clearly indicate, in not less than 2-  
2365 inch high, light-reflective letters on a contrasting background,  
2366 that unauthorized vehicles will be towed away at the owner's  
2367 expense. The words "tow-away zone" must be included on the sign  
2368 in not less than 4-inch high letters.

2369 c. The notice must also provide the name and current  
2370 telephone number of the wrecker company ~~person or firm~~ towing or  
2371 removing the vehicles, if the property owner, ~~lessee, or person~~  
2372 ~~in control~~ of the real property has a written contract with the  
2373 wrecker ~~towing~~ company.

2374 d. The sign structure containing the required notices must  
2375 be permanently installed with the words "tow-away zone" not less  
2376 than 3 feet and not more than 6 feet above ground level and must  
2377 be continuously maintained on the property for not less than 24  
2378 hours prior to the towing or removal of any vehicles.

2379 e. The local government may require permitting and  
2380 inspection of these signs prior to any towing or removal of  
2381 vehicles being authorized.

HB 341

2005  
CS

f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.

g. A property owner towing or removing vessels from real property must post notice, consistent with the requirements in sub-subparagraphs a.-f. which apply to vehicles, that unauthorized vehicles or vessels will be towed away at the owner's expense.

A business owner or lessee may authorize the removal of a vehicle or vessel by a wrecker towing company registered under chapter 508 when the vehicle or vessel is parked in ~~such~~ a manner that restricts the normal operation of business; and, if a vehicle or vessel parked on a public right-of-way obstructs access to a private driveway, the owner, lessee, or agent may have the vehicle or vessel removed by a wrecker towing company registered under chapter 508 upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

6. Each wrecker company ~~Any person or firm~~ that tows or removes vehicles or vessels and proposes to require an owner, operator, or person in control of a vehicle or vessel to pay the costs of towing and storage prior to redemption of the vehicle or vessel must file and keep on record with the local law enforcement agency a complete copy of the current rates to be

Page 87 of 91

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0341-01-c1

HB 341

2005  
CS

2410 charged for those ~~such~~ services and post at the wrecker  
2411 company's storage facility ~~site~~ an identical rate schedule and  
2412 any written contracts with property owners, lessees, or persons  
2413 in control of real property which authorize the wrecker company  
2414 ~~such person or firm~~ to remove vehicles or vessels as provided in  
2415 this section.

2416 7. Each wrecker company ~~Any person or firm~~ towing or  
2417 removing any vehicles or vessels from real ~~private~~ property  
2418 without the consent of the owner or other legally authorized  
2419 person in control of the vehicles or vessels ~~must~~ shall, on each  
2420 wrecker ~~any trucks, wreckers~~ as defined in s. 320.01 ~~s.~~  
2421 ~~713.78(1)(c), or other vehicles~~ used in the towing or removal,  
2422 have the name, address, and telephone number of the wrecker  
2423 company ~~performing such service~~ clearly printed in contrasting  
2424 colors on the driver and passenger sides of the wrecker ~~vehicle~~.  
2425 The name must ~~shall~~ be in at least 3-inch permanently affixed  
2426 letters, and the address and telephone number must ~~shall~~ be in  
2427 at least 1-inch permanently affixed letters.

2428 8. Vehicle or vessel entry for the purpose of towing or  
2429 removing the vehicle or vessel ~~is~~ shall be allowed with  
2430 reasonable care ~~by on the part of~~ the wrecker company and the  
2431 wrecker operators ~~person or firm~~ towing the vehicle or vessel  
2432 for the wrecker company. A wrecker company, its wrecker  
2433 operators, and other employees or agents of the wrecker company  
2434 are not ~~Such person or firm~~ shall be liable for any damage  
2435 occasioned to the vehicle or vessel if ~~such~~ entry to the vehicle  
2436 or vessel is performed ~~not in accordance with the standard of~~  
2437 reasonable care.



HB 341

2005  
CS

2438           9. When a vehicle or vessel is ~~has been~~ towed or removed  
2439 under pursuant to this section, the wrecker company ~~it~~ must  
2440 release the vehicle or vessel ~~be released~~ to its owner or  
2441 custodian within one hour after requested. Any vehicle or vessel  
2442 owner, custodian, or agent has ~~shall have~~ the right to inspect  
2443 the vehicle or vessel before accepting its return. A wrecker  
2444 company may not require any vehicle or vessel owner, custodian,  
2445 or agent to, ~~and no release the wrecker company or waiver of any~~  
2446 ~~kind which would release the person or firm~~ towing the vehicle  
2447 or vessel from liability for damages noted by the owner or other  
2448 legally authorized person at the time of the redemption ~~may be~~  
2449 ~~required from any vehicle owner, custodian, or agent~~ as a  
2450 condition of release of the vehicle or vessel to its owner. A  
2451 wrecker company must give a person paying towing and storage  
2452 charges under this section a detailed, signed receipt showing  
2453 the legal name of the wrecker company ~~or person towing or~~  
2454 ~~removing the vehicle must be given to the person paying towing~~  
2455 ~~or storage charges~~ at the time of payment, whether requested or  
2456 not.

2457           (b) These requirements are ~~shall be the~~ minimum standards  
2458 and do ~~shall~~ not preclude enactment of additional regulations by  
2459 any municipality or county, including the regulation of ~~right to~~  
2460 ~~regulate~~ rates when vehicles or vessels are towed from real  
2461 ~~private~~ property.

2462           (3) This section does not apply to vehicles or vessels  
2463 that are reasonably identifiable from markings as law  
2464 enforcement, firefighting, rescue squad, ambulance, or other

HB 341

2005  
CS

2465 emergency vehicles or vessels ~~which are marked as such~~ or to  
2466 property owned by any governmental entity.

2467 (4) When a person improperly causes a vehicle or vessel to  
2468 be removed, ~~that such person is~~ shall be liable to the owner or  
2469 lessee of the vehicle or vessel for the cost of removal,  
2470 transportation, and storage; any damages resulting from the  
2471 removal, transportation, or storage of the vehicle or vessel;  
2472 attorneys' fees; and court costs.

2473 (5) Failure to make good-faith efforts to comply with the  
2474 notice requirements in subparagraph (2)(a)5. precludes the  
2475 imposition of any towing or storage charges against the vehicle  
2476 or vessel.

2477 (6)(5)(a) Any person who violates ~~the provisions of~~  
2478 subparagraph (2)(a)2. or subparagraph (2)(a)6. commits is guilty  
2479 ~~of~~ a misdemeanor of the first degree, punishable as provided in  
2480 s. 775.082 or s. 775.083.

2481 (b) Any person who violates ~~the provisions of~~ subparagraph  
2482 (2)(a)1., subparagraph (2)(a)3., subparagraph (2)(a)4.,  
2483 subparagraph (2)(a)7., or subparagraph (2)(a)9. commits is  
2484 ~~guilty of~~ a felony of the third degree, punishable as provided  
2485 in s. 775.082, s. 775.083, or s. 775.084.

2486 Section 22. Effective January 1, 2006, subsection (15) of  
2487 section 1.01, Florida Statutes, is repealed.

2488 Section 23. The sum of \$693,000 is appropriated from the  
2489 General Inspection Trust Fund to the Department of Agriculture  
2490 and Consumer Services, and 10 additional full-time-equivalent  
2491 positions are authorized, for the purpose of implementing this  
2492 act during the 2005-2006 fiscal year.

HB 341

2005  
CS

2493           Section 24.   Except as otherwise expressly provided in this  
2494   act, this act shall take effect July 1, 2005.